STATE TRIALS



STATE TRIALS

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The portraits of Sir Walter Raleigh *and* Lord Russell *are taken from photographs of pictures in the National Portrait Gallery, by permission of* Messrs. Walker and Boutall.

To G. de L'É. D.

Dear Gerald,—As you suggested the idea of this book to me, and as I know that whether it succeeds or fails I can count confidently on your sympathy, I will throw into the form of a letter to you the few remarks which I might otherwise put into a preface. For as I have confessions to make which amount almost to an apology, I had rather address them to one who is pledged to express the most favourable possible view of my literary efforts, such as they are, than to that hypothetical reader, of whose tastes I feel most shamefully ignorant, though I am ready to assume everything in his favour.

Far abler writers than I have frequently dilated on the charms attending a study of the reports of State Trials, as they are best known to the world; namely, in one-and-twenty stately volumes compiled by the industrious Howells, father and son, and published, a year after the

eleven firms, the list of whose names begins wi
Longman and ends with Hansard. I mys
long ago discovered the charm of this anthology
and under the spell of long since defunct r
porters (the failures probably of twenty gener
tions of lawyers) have been present in th
imagination at the Assizes, the Sessions, and th
Old Baileys of some two hundred years. But
is possible that there may be quite intelligen
and meritorious persons who are impatient of
work in a score of volumes; who are not reall
interested in the obsolete technicalities of th
criminal law; who do not care to have one pa
of any story repeated more than two or thre
times; and who like to have their facts sifte
out from an encompassing mass of unintelligibl
arguments. If any such there are, who ar
nevertheless attracted by the side-lights on th
opinions and methods of thought of our ancestor
presented by State Trials, I entirely sympathis
with them, and have tried to keep their taste
steadily in view in compiling the following
pages. If, though only through the medium o
the printed page, I can bring the atmosphere
of the Crown Court into the study; if I ca
introduce the traitor, the murderer, and the
witch into the drawing-room; if I can impress

on a few of my contemporaries the idea that persons long since dead on the block or the gallows were Englishmen very much like ourselves, my object is secured.

My task has been confined to a selection of passages to be transferred bodily from Howell's pages; to providing in an abbreviated form the connecting-links between them; and to the supply of sufficient notes to enable the ordinary reader to understand the main outlines of the stories of which the trial generally constitutes the catastrophe. As to my takings from Howell, I need say but little. I have indicated their existence by a change of type. I have carefully preserved those departures from conventional grammar, and that involved and uncouth, but, for that very reason, life-like style of narration which he and his predecessors inherited from the original but unknown authorities. As to my abbreviations, I am fully aware that they do not represent any very high literary effort. It is, I suppose, impossible that mere condensation of another man's narrative should be done very well; but it can certainly be done very ill. My aim, therefore, has been rather to escape disaster than to achieve any brilliant success. The charm of State Trials lies largely in matters of

detail:—that Hale allowed two old women t
executed for witchcraft; that Lord Russell
obviously a traitor; that an eminent judge did
murder a woman in the early part of his car
and that a sea-captain did murder his brothe
order to inherit his wealth, are in themse
facts of varying importance. What the t
in these cases tell us, however, as nothing
can, is what were the popular beliefs a
witchcraft shared by such a man as Hale;
revolutions were planned while such things
still an important factor in practical politics;
what was the state of the second city in
kingdom when a man could be kidnapped in
busiest streets by a gang of sailors and private
men. And this effect can only be reprodu
by considering a mass of detail, pictures
enough in itself, but not always strictly relev
to the matter in hand. Again, to a lawye
all events, it is impossible to omit those mat
which show that the process which goes on
regular intervals in all the criminal courts in
country is essentially the same that it always
been since the Reformation; and accordin
I have not hesitated to indicate as fully as
original made possible the procedure, in
narrower sense of the word, followed at

various trials reported. In the matter of notes I have done my best, in a very narrow compass, to indicate how the trials were connected with contemporary history. I have also reminded the reader (to use the conventional phrase) of the fate of the various characters who are to be met with in each trial. In particular, I have aimed at bringing to the fore what must, after all, be the main point of interest in any trial; namely, who were the counsel briefed, and how they came to be briefed; who were the judges that tried it, how they came to be judges, and what position they held in the opinion of the junior bar at the time. For this part of my work I have taken care to have recourse to the best and most modern authority, and have stated hardly any facts which are not vouched for by the editor of the *Dictionary of National Biography*.

In my selection of cases to be reported I have been guided by a variety of considerations. Personally, I admit that I like the political cases best. There is a squalor about private crime, which, though I like it myself, is inferior to politics as a staple. Besides, one has heard of the heroes of the political trials before; and to read Raleigh's little retort when Coke complains of a want of words adequately to express

his opinion of Raleigh; to be reminded how the worst of kings proved himself an admirable lawyer, and the possessor of manners which, in a humbler station, would assuredly have made the man; to hear the jokes as to Essex's responsibility for the financial prospects of the proposed revolution which amused the company of desperate men in the wine-merchant's upper room; to come across the ghost of the conversation in lonely St. Martin's Lane between the revellers at the Greyhound Tavern, and its interruption by the hostile band hurrying to the duel in Leicester Fields, creates, in my mind at least, the fantastic illusion that Raleigh, Charles I., Russell, Mohun, and the rest of them were all once actually alive.

I feel that I have unduly neglected the claims of what, at the period I have had to do with, was the sister kingdom of Scotland. The Scotch were not then, taking the difference of the population of the two countries into consideration, at all behind the English in the production of treason, murder, and other interesting forms of crime; and their misdeeds were in many respects the more picturesque of the two. I had hoped to place before my readers the true account, or what passes for such, of that murder of Colin

Roy Campbell of Glenure which, as we now know, produced such romantic consequences for David Balfour. The 'Forty-five should have been represented, and Lord Lovat's adventures ought to have served my purpose to a turn. But, alas! the lawyers on these occasions have been hopelessly beaten by the professed story-tellers; and the reports of the trials of Lord Lovat and James Stewart are as dull as the romances of *Waverley* and *Catriona* are entrancing. Why this should be so I do not know. I can ascribe it only to the inferiority of the Scots criminal procedure to our own; and ignorance prevents me from proving that inferiority by any other fact than the one which I am anxious to account for.

After diligent and minute inquiry, I am pleased, though not surprised, to find that Ireland was perfectly free from serious crime during the whole of the seventeenth and eighteenth centuries.

Since making my selection of trials I have become aware that Mr. Leslie Stephen, in his *Hours in a Library*, has chosen for notice precisely those trials which I have reported. I must disclaim any merit in having made the same selection as such an eminent critic; but at the

same time I can confidently affirm that
choice was made before I had read the essa
question. Whether I have been guilty of
crime of plagiarism in this particular I ca
say; neither, as far as that goes, do I care.
readers at least have no reason to complain,
I can count on you, Gerald, to join with m
deprecating the wrath of the outraged autho

Trusting confidently in your co-operatio
secure for this little collection as favourab
reception as may be from that public for w
taste we both have so much respect,—I rem
yours to command,

H. L. STEPHE

The Inner Temple,
31*st December* 1898.

SIR WALTER RALEIGH

SIR WALTER RALEIGH[1]

RALEIGH'S trial is so closely connected with the politics of the time that it cannot be properly understood without reference to them. James owed his succession to the throne, at all events the undisputed recognition of his right to that succession, in a great measure to Cecil's elaborate and careful preparations. It was therefore

[1] The following are the leading dates in Raleigh's life. He was born about 1552 at Hayes, near Budleigh Salterton; he was at Oriel in 1572; he was present at the battles of Jarnac and Montcontour in 1569; he may have been in Paris during the massacre of St. Bartholomew in 1572; he was in Islington in 1577; and fighting in the Low Countries in 1578. He left England on a freebooting expedition the same year, and returned in 1579. He was about the Court on his return, and in 1580 went to Ireland, where he massacred the Spanish prisoners taken at Smerwick. In 1581 he returned to the Court, and attracted the Queen's notice, possibly by laying down his cloak for her to walk over, according to the well-known legend, for which Professor Laughton and Mr. Sidney Lee consider that there may be a foundation in fact. He was knighted in 1584, and made Warden of the Stannaries in 1585, and subsequently received many other profitable grants. In 1584 he sent out the expedition which discovered Virginia, and other expeditions to occupy it, but without success, in 1585 and 1587. In 1588 began his quarrel with Essex; he was in Ireland in 1589, and returned to introduce Spenser to the

natural enough that Cecil's position as chief minister should be confirmed at the beginning of the new reign: but this fact drove two important parties into opposition to the new order of things. The Earl of Northumberland, Lord Grey, Lord Cobham, and Sir Walter Raleigh found themselves deprived of all chance of obtaining power, and the Catholics gradually realised that their position was not likely to be substantially improved. Northumberland indeed was won back by promises of royal favour, but Raleigh was deprived of his captainship of the Royal Guards and his post of Warden of the Stannaries, whilst his monopoly in wine was threatened. The all-important question of foreign politics formed a centre on which the

Queen. In 1592 he helped to fit out a powerful expedition, and against the Queen's orders took it to sea himself; returning in a few months, after capturing the *Madre de Dios*, containing a cargo estimated at the value of half a million. He was committed to the Tower in July for having carried on an intrigue with Elizabeth Throgmorton, and he retired to Sherborne in the same year. In 1593 Raleigh and his friends Harriot and Marlowe incurred the suspicion of the government as atheists, and an inquiry was held, of which the results are not known. In February 1594-95 he started on his first Guiana expedition, and returned in 1595 after sailing some way up the Orinoco. He took part in the expedition to Cadiz in 1596. In July 1600 he was sent with Lord Cobham to congratulate Lord Grey on the battle of Nieuport, and later in the year went as governor to Jersey. He was present, as related in the text, at Essex's trial (see p. 70). The immediate causes which led to his trial are stated above.

international struggle for power turned. James himself was a stranger to the national hatred for the Spaniards which had hitherto been Raleigh's guiding principle. Cecil was probably more anxious for peace than anything else, though desirous to do all he could to advance the power of the Netherlands and hold the Spaniards in check. Meanwhile the various foreign powers concerned prepared to make what profit they could out of the altered state of England. A mission from the Netherlands effected practically nothing. The Duke of Sully, the ambassador from Henry IV. of France, obtained some assistance towards prolonging the defence of Ostend against the Spanish forces. The Archduke Albert[1] sent the Duke of Aremberg, not to negotiate, but to protract the time till the Court of Spain could decide upon a policy.

Northumberland, together with Raleigh and Cobham, seem to have made overtures to Sully which were rejected, on which the two latter transferred their attentions to the Spanish interest, and certainly put themselves into communication with Aremberg. Meanwhile an

[1] Archduke Albert was a younger brother of the Emperor Rudolf II., and had married Isabella, the eldest daughter of Philip II. of Spain, who made over the sovereignty of the Netherlands to his daughter and son-in-law a few years before his death in 1598.

extreme and apparently weak party among the Catholics entered into an obscure and violent undertaking popularly known as the 'surprising' or 'Bye' plot as contrasted with Raleigh's, known as the 'Main.' Watson, a secular priest, whose main motive, in Professor Gardiner's view, was a hatred of the Jesuits, had taken a leading part in reconciling the English Catholics to James's accession. Irritated by the exaction of fines for recusancy instituted at the beginning of the new reign, he allied himself with Clarke, another priest, Sir Griffin Markham, a Catholic gentleman discontented with the government for private reasons, George Brooke, Lord Cobham's brother, and Lord Grey. A fantastic scheme propounded by Markham was adopted, and the conspirators decided to seize the King while hunting, to carry him to the Tower, on the plea of protecting him from his enemies, and there install themselves in power under the shadow of his name. They were, as represented by Coke in Raleigh's trial, to swear to protect the Sovereign from all his enemies, and they affected to have a large following in the country. Copley, an insignificant recruit, was added to the party, and the execution of the plot was fixed for the 24th of June. On that day, however, their partisans proved to be too few for their designs, and the next day Grey separated himself from them. Meanwhile the Jesuits had become aware of the plot and com-

municated their knowledge to the government; and the conspirators were soon arrested. The connection of Brooke with the 'Bye' plot suggested Cobham's complicity; and Raleigh, as his nearest friend, was summoned to Windsor by Cecil to be examined before the Council.

After this examination he wrote the letter to Cobham so often referred to in the trial, saying that he had said nothing to compromise him, and reminding him that one witness, possibly referring either to Aremberg's servant, or Brooke, was not enough to convict of treason. He subsequently wrote to Cecil informing him that Cobham had been in communication with Aremberg, and Cobham was arrested. Raleigh's own arrest followed on July 17th, and within a fortnight he attempted to commit suicide. He and Cobham were both subsequently examined, with the results that appear in the course of the trial. It must be remembered that the government probably had a quantity of private information which they did not produce, partly no doubt with the view of protecting Aremberg. This is particularly so in relation to the most serious part of the case; that, namely, relating to the scheme of placing Lady Arabella on the throne; as to which see Gardiner's *History*, vol. i. pp. 132, 133.

The leading members of the 'Bye' were tried and convicted two days before Raleigh. Cobham and Grey were tried and convicted by the Chan-

cellor sitting as Lord Steward soon after. The two priests and Brooke were hung. Cobham, Grey, and Markham were brought to the scaffold that they might be induced to make their dying declarations, and were then granted their lives. Cobham, when in instant expectation of death, persisted in avowing Raleigh's guilt.

Beyond the interest that attaches to Raleigh's trial from the historical and personal points of view, it is interesting as showing the methods in which an important trial was conducted at the beginning of the seventeenth century. The most remarkable feature of the trial itself in the eyes of a modern reader, beyond its extreme informality, is that Raleigh was condemned on the statement of a confederate, who spoke under extreme pressure, with every inducement to exculpate himself at Raleigh's expense, and whom Raleigh never had a chance of meeting. The reasons given by Popham for refusing to allow Cobham to be called as a witness at the trial are instructive, and, as Professor Gardiner points out, prove that in political trials at all events, when the government had decided that the circumstances of the case were sufficient to justify them in putting a man on his trial, the view of the court before which he was tried was that he was to be condemned unless he succeeded in proving his innocence. This fact alone leads the modern Englishman

to sympathise with Raleigh, and this feeling is naturally increased by what Sir James Stephen calls the 'rancorous ferocity' of Coke's behaviour. The second cause added to Raleigh's popularity, and the political reasons which led to his trial are probably what produced the same feelings among his contemporaries. It is beyond my present purpose to discuss how far Raleigh was really guilty of treason, even were I competent to express any opinion on the subject worth attending to. But for the credit of the lawyers who presided at the trial, I may point out that the assertions that the statute of Edward VI., requiring two witnesses in cases of treason, had been repealed, and that the trial at common law was by examination, and not by a jury and witnesses, were not as incomprehensibly unjust as they appear to us. A statute of Philip and Mary enacted that cases of treason should be tried according to the due order and course of common law, and the statute of Edward VI., being regarded as an innovation upon the common law, was thus held to be implicitly repealed. The rule as to the two witnesses seems to have been construed as referring to trial by witnesses as it existed under the civil law, which was taken to require two eye- or ear-witnesses to the actual fact constituting the crime. With such a trial, trial by jury was frequently contrasted, and if the

rigour of the civil law was not to be insisted on, the only alternative seemed to be that the jury should form their opinion as they could, if not from their own knowledge, then from any materials that might be laid before them. This naturally did away with any rules of evidence as we understand them, and consequently Cobham's confession became as good evidence as the jury could expect to have. In fact, as Sir James Stephen says, 'The only rules of evidence as to matters of fact recognised in the sixteenth century seem to have been the clumsy rules of the mediæval civil law, which were supposed to be based on the Bible. If they were set aside, the jury were absolute, practically absolute, and might decide upon anything which they thought fit to consider evidence.' See further Gardiner's *History*, vol. i. pp. 108-140; and Stephen's *History of the Criminal Law*, vol. i. pp. 333-337.

Sir Walter Raleigh was tried at Winchester on the 17th of November 1603 before a commission consisting of Thomas Howard,[1] Earl of Suffolk,

[1] Thomas Howard, Earl of Suffolk (1561-1626), was the second son of the Duke of Norfolk beheaded by Elizabeth in 1572. He gained considerable distinction as a sailor, taking part in the defeat of the Armada and the attack on the Spanish treasure-ship in which Sir Richard Grenville was killed. He rose to a position of influence under Elizabeth, was made an Earl on James's accession, and after filling many high offices became Lord High Treasurer in 1614, which office

Lord Chamberlain; Charles Blunt,[1] Earl of Devon; Lord Henry Howard,[2] afterwards Earl of Northampton; Robert Cecil,[3] Earl of Salis-

he held till 1619. In that year he was dismissed, fined £30,000, and imprisoned in the Tower, for serious embezzlements and other frauds. He was afterwards received back into favour: it was generally supposed that his wife was chiefly to blame for his defalcations. He was grandfather to the second Lord Howard of Escrick, the witness against Lord Russell, whose trial see in vol. ii.

[1] Charles Blunt, Earl of Devon (1563-1606), was the second son of the eighth Lord Mountjoy. He soon attracted the Queen's notice, fought in the Low Countries, and took part in the defeat of the Armada. He was offered and accepted the post of Lord Deputy of Ireland after it was vacated by Essex, and was to some extent implicated in Essex's subsequent treason. In 1602 he obtained Tyrone's surrender in Ireland after three years' fighting. He returned to England in 1603, and held occasional important appointments. In 1605 he was married by Laud to Lady Rich, the former mistress of Sir Philip Sidney and himself, and the divorced wife of Lord Rich. The event is chiefly remarkable for the part taken in it by Laud.

[2] Henry Howard, Earl of Northampton (1540-1614), was the second son of the Earl of Surrey, beheaded in Henry VIII.'s reign. After a long period of political intrigue he rose to power on James's accession, having long been in correspondence with him. He was an avowed enemy of Raleigh. He maintained a position of great influence till the end of his life, generally using his influence in support of the king's prerogative and the Catholics. After his death he was accused of complicity in the poisoning of Sir Thomas Overbury in the Tower: not altogether without reason. He built Northumberland House.

[3] Robert Cecil, Earl of Salisbury (1563 ?-1612), was at the time of this trial at the middle point of his long official career. He first appears in a public capacity in 1588, when he was sent to Spain in the train of Lord Derby, having been

bury; Edward, Lord Wotton of Morley, Sir John Stanhope, Vice-Chamberlain; Lord Chief-Justice of England Popham;[1] Lord Chief-Justice of the Common Pleas Anderson;[2]

appointed ambassador to negotiate conditions of peace. He represented Hertfordshire in the House of Commons in 1589; in 1591 he was sworn of the Privy Council; and in 1596, during the absence of his rival Essex on the Cadiz expedition, he was appointed Secretary of State. In 1598 he took part in an embassy to Paris with Lord Brooke, Raleigh, and others to hinder an alliance between France and Spain. In 1600 Cecil was a member of a Commission appointed to report on Essex's return from Ireland without permission, and managed to mitigate the gravity of his offence; but in 1601, on Essex's trial for treason, had to defend himself from an accusation by Essex of having declared himself in favour of the Infanta's claim to the throne. By careful preparations he secured the peaceable accession of James II. to the throne, and was raised to the peerage, and eventually made Earl of Salisbury in consequence. For the rest of his life he remained James's most trusted minister.

[1] John Popham (1531-1607) was born of a good family in Somersetshire. He was reported to have been stolen by gypsies in his youth, but was educated at Balliol. He began life in London as a law-student and a highwayman; but soon became, according to Campbell, a consummate lawyer, practising chiefly as a special pleader. He became a Serjeant and Solicitor-General in 1578, Speaker in 1580, Attorney-General in 1581, and Lord Chief-Justice in 1592. He presided at the trial of Guy Fawkes and his fellow-conspirators. He enjoyed the reputation of being a sound lawyer and a severe judge. He left the greatest estate that had ever been amassed by a lawyer; but it is probably untrue that he acquired Littlecot Hall by fraudulently acquitting 'Wild Darrell' of the murder of its newly born heir. He was, however, reported to have saved money while he was a highwayman.

[2] Sir Edmund Anderson (1530-1605) was born at Flin-

Justices Gawdie and Warburton; and Sir W. Wade.

The indictment charged Raleigh with high treason by conspiring to deprive the King of his government; to alter religion; to bring in the Roman Superstition; and to procure foreign enemies to invade the kingdom. The facts alleged to support these charges were that Lord Cobham,[1] on the 9th of June 1603, met Raleigh

borough or Broughton in Lincolnshire. He was educated at Lincoln College, Oxford, called to the bar, and made a Serjeant in 1577. He tried Robert Brown, founder of the Brownists, as assistant judge on the Norfolk Circuit in 1581; in the same year he tried Campian, the Jesuit, on the Western Circuit. In both cases he expressed strong views as to the claims of the Established Church. He was promoted to the chiefship of the Common Pleas in 1582, and tried Babington for treason in 1586, and Davison for beheading Mary, Queen of Scots. He also took part in the trials of the Duke of Arundel; Sir John Perrot, Lord Deputy of Ireland; and the Earl of Essex. He also tried Udall, the puritan, and no doubt tried to entrap him into a confession of guilt. Apart from political trials, he had the reputation of being a good judge and a sound lawyer.

[1] Henry Brooke, eighth Lord Cobham, was the son of a leading favourite of Queen Elizabeth's. On his father's death he succeeded to much of his father's influence; Robert Cecil married his sister; and they were both enemies of Essex. Cobham's influence did not last into James's reign, and he entered on the transactions which are discussed in Raleigh's trial. He himself was tried and convicted after Raleigh (see p. 6), but after being pardoned on the scaffold he remained a prisoner in the Tower till 1617, when he was allowed to pay a visit to Bath for his health: he died on the way home.

at Durham House in London, and conferred with him as to advancing Lady Arabella Stuart[1] to the throne; that it was there agreed that Cobham should, with Aremberg, the ambassador of the Archduke of Austria, bargain for a bribe of 600,000 crowns; that Cobham should go to the Archduke Albert, to procure his support for Lady Arabella, and from him to the King of Spain; that Lady Arabella should write three letters to the Archduke, to the King of Spain, and to the Duke of Savoy, promising to establish peace between England and Spain, to tolerate the Popish and Roman superstition, and to be ruled by them as to her marriage. Cobham was then to return to Jersey, where he would find Raleigh and take counsel with him as to how to distribute Aremberg's bribe. On the same

[1] Arabella Stuart was the daughter of the Earl of Lenox, younger brother of Lord Darnley, the grandson of Margaret, eldest sister of Henry VII., and thus stood next in succession to James. Her claim to the throne as against James was that she was born in England, whereas he was an alien. She had been arrested by Elizabeth in consequence of a rumour that she was to marry William Seymour, grandson of Catherine Grey. She was imprisoned in 1609 on another rumour of her marriage to some person unknown. In 1610 she became actually engaged to William Seymour: he promised not to marry her without the King's consent, but married her secretly a few months afterwards. The marriage was discovered, and she was committed to private custody whilst her husband was committed to the Tower. She escaped, disguised in a man's clothes, but was arrested in the Straits of Dover. She died in the Tower in 1615.

day Cobham told his brother Brook of all these treasons, and persuaded him to assent to them; afterwards Cobham and Brook spoke these words, 'That there would never be a good world in England till the King (meaning our sovereign lord) and his cubs (meaning his royal issue) were taken away.' Further Raleigh published a book to Cobham, written against the title of the King, and Cobham published the same book to Brook. Further, Cobham, on the 14th of June, at Raleigh's instigation, moved Brook to incite Lady Arabella to write the letters as aforesaid. Also on the 17th of June Cobham, at Raleigh's instigation, wrote to Aremberg through one Matthew de Lawrency, to obtain the 600,000 crowns, which were promised to him on the 18th of June, and of which Cobham promised 8000 to Raleigh and 10,000 to Brook.

To this indictment Raleigh pleaded Not Guilty; and a jury was sworn, to none of whom Raleigh took any objection.

Heale, the King's Serjeant, then opened the case very shortly, merely reciting the facts mentioned in the indictment, concluding: 'Now, whether these things were bred in a hollow tree, I leave him to speak of, who can speak far better than myself'; and so sat down again.

Attorney-General (Sir Ed. Coke[1])—I must first,

[1] Sir Edward Coke (1552-1634) came of an old Norfolk

my lords, before I come to the cause, give one caution, because we shall often mention persons of eminent places, some of them great monarchs: whatever we say of them, we shall but repeat what others have said of them; I mean the Capital Offenders, in their Confessions. We professing law must speak reverently of kings and potentates. I perceive these honourable lords, and the rest of this great assembly, are come to hear what hath been scattered upon the wrack of report. We carry a just mind, to condemn no man, but upon plain Evidence.

family, and was educated at Trinity College, Cambridge. He was called to the bar in 1578, having already acquired a reputation as a lawyer. He entered public life as member for Aldborough in 1589, and as member for Norfolk in 1592. He became Speaker in 1593, and in opposition to Bacon became Attorney-General in 1593. In 1598, on the death of his first wife, he married Elizabeth Hatton, Burghley's granddaughter, again depriving Bacon of a prize. He was retained to prosecute Essex, Southampton, and the Gunpowder Plot conspirators, against all of whom he showed the same animus that he did against Raleigh. In 1606 he became Chief-Justice of the Common Pleas, in which capacity he maintained the independence of the Law Courts against ecclesiastical interference. He likewise offered a resolute opposition to the King's claim to place impositions on imported merchandise, and to regulate by proclamation such matters as the erection of new buildings in London and the manufacture of starch from wheat. In 1613 Coke, much against his will, was promoted, on Bacon's advice, to the post of Chief-Justice of the King's Bench, where, though his dignity was greater, his profits were less, and he was less likely to have opportunity for opposing the King's measures. At the same time he was made a Privy Councillor. His opposition to the power of the Chancellor to exercise his equitable jurisdiction by injunction, and to the King's power to grant commendams proved less

Here is Mischief, Mischief *in summo gradu*, exorbitant Mischief. My Speech shall chiefly touch these three points: Imitation, Supportation, and Defence. The Imitation of evil ever exceeds the Precedent; as on the contrary, imitation of good ever comes short. Mischief cannot be supported but by Mischief; yea, it will so multiply, that it will bring all to confusion. Mischief is ever underpropped by falsehood or foul practices: and because all these things did concur in this Treason, you shall under-

successful than his former measures; and what was considered his excess of zeal in inquiring into the murder of Sir Thomas Overbury, his opposition to the growth of the powers of the Ecclesiastical Commission and the Star Chamber, and no doubt other less public matters, led to his being deprived of his office on the 5th of November 1616. After his dismissal he became engaged in a most undignified quarrel with his wife as to whether their daughter should marry Buckingham's elder brother, which she eventually did. In 1617 he was recalled to the Council, and occasionally judicially employed. In 1621 he re-entered the House of Commons, and took up the popular side in resisting monopolies and other abuses. He was engaged in drawing up the charges against Bacon in the same year. He drew up the 'Protestation' affirming the privileges of Parliament in December 1621, and was committed to the Tower in consequence. He was released in August 1622, but remained in a kind of qualified confinement. He resisted an attempt by James to exclude him from the 1624 Parliament by sending him on a commission to Ireland, and though he continued in opposition contrived to reconcile himself to the King to some extent. He opposed Charles's demands for money in his first two parliaments and drafted the Petition of Right, and made his final appearance in the debate on the Grand Remonstrance (1628), when he openly accused Buckingham as being the cause of the misfortunes of the country.

stand the main, as before you did the bye. The Treason of the bye consisteth in these Points: first that the lord Grey, Brook, Markham, and the rest, intended by force in the night to surprise the king's court; which was a Rebellion in the heart of the realm, yea, in the heart of the heart, in the Court. They intended to take him that is a sovereign, to make him subject to their power, purposing to open the doors with musquets and cavaliers, and to take also the Prince and Council: then under the king's authority to carry the King to the Tower; and to make a stale of the admiral. When they had the King there, to extort three things from him, first, A Pardon for all their Treasons: Secondly, A Toleration of the Roman Superstition; which their eyes shall sooner fall out than they shall ever see; for the king hath spoken these words in the hearing of many, 'I will lose the crown and my life, before ever I will alter Religion.' And thirdly, To remove Counsellors. In the room of the Lord Chancellor, they would have placed one Watson, a priest, absurd in Humanity and ignorant in Divinity. Brook, of whom I will speak nothing, Lord Treasurer. The great Secretary must be Markham; *Oculus patriæ*. A hole must be found in my Lord Chief-Justice's coat. Grey must be Earl-Marshal, and Master of the Horse, because he would have a table in court; marry, he would advance the earl of Worcester to a higher place. All this cannot be done without a multitude: therefore Watson the priest tells a resolute man that the king was in danger of Puritans and Jesuits; so to bring him in blindfold into the action saying, That the king is no king till he be crowned; therefore every man might right his own wrongs: but he is *rex natus*, his dignity

descends as well as yours, my lords. Then Watson imposeth a blasphemous Oath, that they should swear to defend the king's person; to keep secret what was given them in charge, and seek all ways and means to advance the Catholic Religion. Then they intend to send for the Lord Mayor and the Aldermen, in the king's name, to the Tower; lest they should make any resistance, and then take hostages of them; and to enjoin them to provide for them victuals and munition. Grey, because the king removed before Midsummer, had a further reach to get a Company of Sword-men to assist the action: therefore he would stay till he had obtained a regiment from Ostend or Austria. So you see these Treasons were like Sampson's foxes, which were joined in their tails, though their heads were severed.

Raleigh—You Gentlemen of the Jury, I pray remember, I am not charged with the Bye, being the Treason of the priest.

Attorney—You are not. My lords, you shall observe three things in the Treasons: 1. They had a Watch-word (the king's safety): their Pretence was *Bonum in se*; their Intent was *Malum in se*: 2. They avouched Scripture; both the priests had *Scriptum est*: perverting and ignorantly mistaking the Scriptures; 3. They avouched the Common Law, to prove that he was no king until he was crowned; alledging a Statute of 13 Elizabeth.

He then proceeds to mention other cases of treason where the accused had considered that their acts were *bonum in se*, and, defining treason, lays down that—

There is Treason in the heart, in the hand, in

the mouth, in consummation: comparing that *in corde* to the root of a tree; *in ore*, to the bud; *in manu*, to the blossom; and that which is *in consummatione*, to the fruit. Now I come to your Charge, You of the Jury: the greatness of Treason is to be considered in these two things, *determinatione finis*, and *electione mediorum*. This Treason excelleth in both, for that it was to destroy the king and his progeny. These treasons are said to be *crimen læsæ majestatis*; this goeth further, and may be termed, *crimen extirpandæ regiæ majestatis*, and *totius progenici suæ*. I shall not need, my lord, to speak anything concerning the king, nor of the bounty and sweetness of his nature whose thoughts are innocent, whose words are full of wisdom and learning, and whose works are full of honour, although it be a true saying, *Nunquam nimis quod nunquam satis*. But to whom do you bear Malice? To the Children?

RALEIGH—To whom speak you this? You tell me news I never heard of.

ATTORNEY—O sir, do I? I will prove you the notoriest traitor that ever came to the bar. After you have taken away the king, you would alter Religion: as you, sir Walter Raleigh, have followed them of the Bye in Imitation: for I will charge you with the words.

RALEIGH—Your words cannot condemn me; my innocency is my defence. Prove one of these things wherewith you have charged me, and I will confess the whole Indictment, and that I am the horriblest traitor that ever lived, and worthy to be crucified with a thousand thousand torments.

ATTORNEY—Nay, I will prove all: thou art a monster; thou hath an English face but a Spanish heart. Now

you must have Money; Aremberg was no sooner in England (I charge thee, Raleigh) but thou incitest Cobham to go unto him, and to deal with him for Money, to bestow on discontented persons, to raise Rebellion on the kingdom.

RALEIGH—Let me answer for myself.

ATTORNEY—Thou shalt not.

RALEIGH—It concerneth my life.

LORD CHIEF-JUSTICE—Sir Walter Raleigh, Mr. Attorney is but yet in the General: but when the king's Council have given the evidence wholly you shall answer every Particular.

ATTORNEY—O! do I touch you?

LORD CECIL—Mr. Attorney, when you have done with this General Charge, do you not mean to let him answer every Particular?

ATTORNEY—Yes, when we deliver the Proofs to be read. Raleigh procured Cobham to go to Aremberg, which he did by his instigation: Raleigh supped with Cobham before he went to Aremberg; after supper, Raleigh conducted him to Durham-House, from thence Cobham went with Lawrency, a servant of Aremberg's unto him, and went in by a back way. Cobham could never be quiet until he had entertained this motion, for he had four Letters from Raleigh. Aremberg answered, The Money should be performed, but knew not to whom it should be distributed. Then Cobham and Lawrency came back to Durham-House, where they found Raleigh. Cobham and Raleigh went up and left Lawrency below, where they had secret conference in a gallery; and after, Cobham and Lawrency departed from Raleigh. Your jargon was Peace: what is that? Spanish invasion, Scottish subversion. And again, you are not a fit man to take so

much Money for procuring of a lawful Peace, for Peace procured by money is dishonourable. Then Cobham must go to Spain, and return by Jersey, where you were Captain: and then, because Cobham had not so much policy, or at least wickedness, as you, he must have your advice for the distribution of the money. Would you have deposed so good a king, lineally descended of Elizabeth, eldest daughter of Edward IV.? Why then must you set up another? I think you meant to make Arabella a Titular Queen, of whose Title I will speak nothing; but sure you meant to make her a stale. Ah! good lady, you could mean her no good.

RALEIGH—You tell me news, Mr. Attorney.

ATTORNEY—Oh sir!. I am the more large, because I know with whom I deal: for we have to deal to-day with a man of wit.

RALEIGH—Did I ever speak with this lady?

ATTORNEY—I will track you out before I have done. Englishmen will not be led by persuasion of words, but they must have books to persuade.

RALEIGH—The Book was written by a man of your profession, Mr. Attorney.

ATTORNEY—I would not have you so impatient.

RALEIGH—Methinks you fall out with yourself; I say nothing.

ATTORNEY—By this Book you will persuade men, that he is not the lawful king. Now let us consider some circumstances: my lords, you will know my lord Cobham (for whom we all lament and rejoice; lament in that his house, which hath stood so long unspotted, is now ruinated: rejoice, in that his Treasons are revealed): he is neither politician nor swordman; Raleigh was both, united in the Cause with him and

therefore cause of his destruction. Another circumstance is, the secret contriving of it. Humphry Stafford claimed Sanctuary for Treason: Raleigh, in his Machiavelian policy hath made a Sanctuary for Treason: he must talk with none but Cobham; because, saith he, one Witness can never condemn me. For Brook said unto sir Griffith Markham, 'Take heed how you do make my lord Cobham acquainted; for whatsoever he knoweth, Raleigh the witch will get it out of him.' As soon as Raleigh was examined on one point of Treason concerning my lord Cobham he wrote to him thus: 'I have been examined of you, and confessed nothing.' Further, you sent to him by your trusty Francis Kemish,[1] that one witness could not condemn; and therefore bade his lordship be of good courage. Came this out of Cobham's quiver? No: but out of Raleigh's machiavelian and devilish policy. Yea, for Cobham did retract it; why then did ye urge it? Now then see the most horrible practices that ever came out of the bottomless pit of the lowest hell. After that Raleigh had intelligence that Cobham had accused him, he endeavoured to have intelligence from Cobham which he had gotten by young sir John Payton: but I think it was the error of his youth.

Raleigh—The lords told it me, or else I had been sent to the Tower.

Attorney—Thus Cobham, by the instigation of Raleigh, entered into these actions: so that the question will be, whether you are not the principal traitor and he would nevertheless have entered into it? Why did Cobham retract all the same? First, because

[1] *Post*, p. 45.

Raleigh was so odious, he thought he should fare the worse for his sake; secondly, he thought thus with himself, If he be free I shall clear myself the better. After this, Cobham asked for a Preacher to confer with, pretending to have Dr. Andrews;[1] but indeed he meant not to have him but Mr. Galloway,[2] a worthy and reverent preacher, who can do more with the King (as he said) than any other; that he seeing his constant denial, might inform the king thereof. Here he plays with the preacher. If Raleigh could persuade the lords that Cobham had no intent to travel, then he thought all should be well. Here is forgery! In the Tower, Cobham must write to sir Thos. Vane, a worthy man, that he meant not to go to Spain: which letter Raleigh devised in Cobham's name.

RALEIGH—I will wash my hands of the indictment, and die a true man to the king.

ATTORNEY—You are the absolutest traitor that ever was.

[1] Andrews (1555-1626) was appointed to the living of St. Giles, Cripplegate, in 1589, through Walsingham's influence. He was made Master of Pembroke Hall soon after. He refused two bishoprics offered him by Elizabeth because he would not consent to the alienation of any part of their revenues; but became Dean of Windsor in 1601. He subsequently became Bishop of Chichester in 1605; of Ely in 1609; of Winchester in 1619. He took part in the Hampton Court Conference, and his name stands first in the list of the authors of the Authorised Version.

[2] Patrick Galloway had followed the King from Scotland: he had assisted James in some of his religious writings, and was Moderator of the General Assembly in 1590 and 1602. He afterwards upheld the liberties of the Kirk against the attempts of James to restrict them, and warmly supported the Five Articles of Perth in 1618.

RALEIGH—Your phrases will not prove it.

ATTORNEY—Cobham writeth a letter to my lord Cecil, and doth with Mellis's man to lay it in a Spanish Bible and to make as though he found it by chance. This was after he had intelligence with this viper, that he was false.

LORD CECIL—You mean a letter intended to me; I never had it.

ATTORNEY—No, my lord, you had it not. You, my masters of the jury, respect not the wickedness and hatred of the man, respect his cause: if he be guilty, I know you will have care of it, for the preservation of the king, the continuance of the Gospel authorized, and the good of us all.

RALEIGH—I do not hear yet, that you have spoken one word against me; here is no Treason of mine done: If my lord Cobham be a Traitor, what is that to me?

ATTORNEY—All that he did was by thy instigation, thou viper; for I 'thou' thee, thou Traitor.

RALEIGH—It becometh not a man of quality and virtue to call me so: But I take comfort in it, it is all you can do.

ATTORNEY—Have I angered you?

RALEIGH—I am in no case to be angry.

CHIEF-JUSTICE POPHAM—Sir Walter Raleigh, Mr. Attorney speaketh out of the zeal of his duty, for the service of the king, and you for your life; be valiant on both sides.

The Lord Cobham's Examination.[1]

'He confesseth, he had a Passport to go into Spain,

[1] See *ante*, p. 5.

intending to go to the Archduke, to confer with him about these Practices; and because he knew the Archduke had not Money to pay his own army, from thence he meant to go to Spain to deal with the king for the 600,000 crowns, and to return by Jersey; and that nothing should be done, until he had spoken with sir Walter Raleigh for distribution of the Money to them which were discontented in England. At the first beginning, he breathed out oaths and exclamations against Raleigh, calling him Villain and Traitor; saying he had never entered into these courses but by his instigation, and that he would never let him alone.' (Here Mr. Attorney willed the Clerk of the Crown Office to read over these last words again, 'He would never let him alone.') 'Besides he spake of plots and invasions; of the particulars whereof he could give no account, though Raleigh and he had conferred of them. Further he said, he was afraid of Raleigh, that when he should return by Jersey, that he would have delivered him and the Money to the king.' 'Being examined of sir A. Gorge he freed him, saying, They never durst trust him: but sir Arthur Savage they intended to use, because they thought him a fit man.'

Raleigh — Let me see the Accusation: this is absolutely all the Evidence that can be brought against me; poor shifts! You Gentlemen of the Jury, I pray you understand this. This is that which must either condemn, or give me life; which must free me, or send my wife and children to beg their bread about the streets. This is that which must prove me a notorious Traitor, or a true subject to the king. Let me see my Accusation, that I may make my Answer.

Clerk of the Council—I did read it, and shew you all the examinations.

Raleigh—At my first examination at Windsor, my lords asked me what I knew of Cobham's practice with Aremberg; I answered negatively: and as concerning Arabella I protest before God I never heard one word of it. If that be proved, let me be guilty of 10,000 Treasons. It is a strange thing you will impute that to me, when I never so much as heard the name of Arabella Stuart, but only the name of Arabella. After being examined, I told my lords, that I thought my lord Cobham had conference with Aremberg; I suspected his visiting of him; for after he departed from me at Durham-house I saw him pass by his own stairs, and passed over to St. Mary Saviours, where I knew Lawrency, a merchant, and a follower of Aremberg, lay, and therefore likely to go unto him. My lord Cecil asked my opinion concerning Lawrency; I said that if you do not apprehend Lawrency, it is dangerous, he will fly; if you do apprehend him, you shall give my lord Cobham notice thereof. I was asked who was the greatest man with my lord Cobham; I answered, I knew no man so great with him as young Wyat of Kent. As soon as Cobham saw my Letter to have discovered his dealing with Aremberg in his fury he accused me; but before he came to the stair-foot, he repented, and said he had done me wrong. When he came to the end of his Accusation he added, that if he had brought this money to Jersey, he feared that I would have delivered him and the Money to the King. Mr. Attorney, you said this never came out of Cobham's quiver; he is a simple man. Is he so simple? no: he hath a disposition of his own, he will not easily be

guided by others; but when he has once taken head in a matter, he is not easily drawn from it: he is no babe.

He then goes on to point out the inherent improbabilities of Cobham's story; he himself had no means for persuading the King of Spain to disburse money, having lost his wardenship of the Stannaries; he knew England to be stronger and Spain to be weaker than they had been; the Spanish fleet had been ruined, and the trade with the Indies had fallen off. Cobham had no money of his own. When Raleigh was examined, he had £40,000 worth of Cobham's jewels which he had bought of him. 'If he had had a fancy to run away he would not have left so much as to have purchased a lease in fee-farm. I saw him buy £300 worth of books to send to his library at Canterbury, and a cabinet of £30 to give to Mr. Attorney for drawing the conveyances; and God in Heaven knoweth, not I, whether he intended to travel or not. But for that practice with Arabella, or letters to Aremberg framed, or any discourse with him, or in what language he spake unto him; if I knew any of these things, I would absolutely confess the indictment, and acknowledge myself worthy of ten thousand deaths.'

Cobham's second Examination read.

The lord Cobham being required to subscribe to an Examination, there was shewed a Note under

sir Walter Raleigh's hand; the which when he had perused, he paused, and after brake forth into those Speeches: Oh Villain! oh Traitor! I will now tell you all the truth; and then he said, His purpose was to go into Flanders, and into Spain, for the obtaining the aforesaid Money; and that Raleigh had appointed to meet him in Jersey as he returned home, to be advised of him about the distribution of the Money.

Lord Chief-Justice Popham—When Cobham answered to the Interrogatories, he made scruple to subscribe, and being urged to it, he said, if he might hear me affirm, that if a person of his degree ought to set his hand he would: I lying then at Richmond for fear of the plague was sent for, and I told he ought to subscribe; otherwise it were a Contempt of a high nature: then he subscribed. The lords questioned with him further, and he shewed them a letter, as I thought written to me, but it was indeed written to my lord Cecil; he desired to see the Letter again, and then said, 'Oh wretch! oh traitor!' whereby I perceived you had not performed that trust he had reposed in you.

Raleigh—He is as passionate a man as lives; for he hath not spared the best friends he hath in England in his passion. My lords, I take it, he that has been examined, has ever been asked at the time of his Examination, if it be according to his meaning, and then to subscribe. Methinks, my lords, when he accuses a man, he should give some account and reason of it: it is not sufficient to say we talked of it. If I had been the plotter, would not I have given Cobham some arguments, whereby to persuade the king of Spain, and answer his objections? I knew

Westmoreland and Bothwell, men of other understandings than Cobham, were ready to beg their bread.

Sir Thos. Fowler (one of the Jury)—Did sir Walter Raleigh write a letter to my lord before he was examined concerning him or not?

Attorney—Yes.

Lord Cecil—I am in great dispute with myself to speak in the case of this gentleman; a former dearness between me and him tyed so firm a knot of my conceit of his virtues, now broken by a discovery of his imperfections. I protest, did I serve a king that I knew would be displeased with me for speaking, in this case I would speak, whatever came of it; but seeing he is compacted of piety and justice, and one that will not mislike of any man for speaking the truth, I will answer your question. Sir Walter Raleigh was staid by me at Windsor, upon the first news of Copley, that the king's person should be surprized by my lord Grey, and Mr. Geo. Brook; when I found Brook was in, I suspected Cobham, then I doubted Raleigh to be a partaker. I speak not this, that it should be thought I had greater judgment than the rest of my lords in making this haste to have them examined. Raleigh following to Windsor, I met with him upon the Terrace and willed him, as from the king, to stay; saying the lords had something to say to him; then he was examined, but not concerning my lord Cobham but of the surprizing treason. My lord Grey was apprehended, likewise Brook; by Brook, we found that he had given notice to Cobham of the surprizing treason, as he delivered it to us; but with as much sparingness of a brother as he might. We sent for

my lord Cobham to Richmond, where he stood upon his justification and his quality; sometimes being froward, he said he was not bound to subscribe, wherewith we made the king acquainted. Cobham said, if my Lord Chief-Justice would say it was a Contempt, he would subscribe; whereof being resolved, he subscribed. There was a light given to Aremberg, that Lawrency was examined; but that Raleigh knew that Cobham was examined is more than I know.

RALEIGH—If my lord Cobham had trusted me in the Main, was not I as fit a man to be trusted in the Bye?

LORD CECIL—Raleigh did by his Letters acquaint us that my lord Cobham had sent Lawrency to Aremberg, when he knew not he had any dealings with him.

LORD H. HOWARD—It made for you if Lawrency had been only acquainted with Cobham, and not with you. But you knew his whole estate, and were acquainted with Cobham's practice with Lawrency: and it was known to you before that Lawrency depended upon Aremberg.

ATTORNEY—1. Raleigh protested against the surprizing treason. 2. That he knew not of the matter touching Arabella. I would not charge you, sir Walter, with the matter of falsehood: you say you suspected the Intelligence that Cobham had with Aremberg by Lawrency.

RALEIGH—I thought it had been no other intelligence, but such as might be warranted.

ATTORNEY—Then it was but lawful suspicion. But to that whereas you said, that Cobham had accused you in passion, I answer three ways. 1. I observed, when Cobham said let me see the letter again, he paused; and when he did see that count Aremberg

was touched, he cried out, oh traitor! oh villain! now will I confess the whole truth. 2. The accusation of a man on hearsay is nothing: would he accuse himself on passion and ruinate his case and posterity out of malice to accuse you? 3. Could this be out of passion? Mark the manner of it; Cobham had told this at least two months before to his brother Brook, 'You are fools, you are on the Bye, Raleigh and I are on the Main, we mean to take away the king and his cubs.' This he delivered two months before. So mark the manner and the matter; he would not turn the weapon against his own bosom, and accuse himself to accuse you.

RALEIGH—Hath Cobham confessed that?

LORD CHIEF-JUSTICE — This is spoken by Mr. Attorney to prove that Cobham's speech came not out of passion.

RALEIGH—Let it be proved that Cobham said so.

ATTORNEY—Cobham saith that he was a long time doubtful of Raleigh that he would send him and the money to the king. Did Cobham fear lest you would betray him in Jersey? Then of necessity there must be trust between you. No man can betray a man but he that is trusted, in my understanding. That is the greatest argument to prove that he was acquainted with Cobham's proceedings. Raleigh has a deeper reach, than to make himself as he said, 'Robin Hood, a Kett, or Cade'; yet I never heard that Robin Hood was a traitor; they say he was an outlaw. And whereas he saith that our king is not only more wealthy and potent than his predecessors, but also more politic and wise, so that he could have no hope to prevail; I answer, There is no king so potent, wise, and active, but he may be overtaken through

treason. Whereas you say Spain is so poor, discoursing so largely thereof; it had been better for you to have kept in Guiana, than to have been so well acquainted with the state of Spain. Besides, if you could have brought Spain and Scotland to have joined, you might have hoped to prevail a great deal the better. For his six Overthrows, I answer, he hath the more malice, because repulses breed desire of revenge. Then you say you never talked with Cobham, but about leases, and letting lands, and ordering his house; I never knew you Clerk of the Kitchen, etc. If you had fallen on your knees at first and confessed the Treason, it had been better for you. You say, He meant to have given me a Cabinet of £30; perhaps he thought by those means to have anticipated me therewith. But you say all these are Circumstances: I answer, all this Accusation in Circumstance is true. Here now I might appeal to my lords, that you take hold of this, that he subscribed not to the Accusation.

Lord Henry Howard — Cobham was not then pressed to subscribe.

Attorney—His Accusation being testified by the lords, is of as great force as if he had subscribed. Raleigh saith again, If the Accuser be alive he must be brought face to face to speak; and alledges 25 Edw. 3rd, that there must be two sufficient Witnesses, that must be brought face to face before the accused; and alledgeth 12 and 13 Elizabeth.

Raleigh—You try me by the Spanish Inquisition, if you proceed only by the Circumstances, without two Witnesses.

Attorney—This is a treasonable speech.

Raleigh—*Evertere Hominem justum in causa sua*

injustum est. Good my lords, let it be proved, either by the laws of the land, or the laws of God, that there ought not to be two Witnesses appointed; yet I will not stand to defend this point in law, if the king will have it so: it is no rare thing for a man to be falsely accused. A Judge condemned a woman in Sarum for killing her husband, on the testimony of one Witness; afterwards his man confessed the Murder, when she was executed; who after being touched in conscience for the Judgment was used to say: *Quod nunquam de hoc facto animam in vita sua purgaret.* It is also commanded by the Scripture; *Allocutus est Jehova Mosen, in Ore duorum aut trium Testium*, etc. If Christ requireth it, as it appeareth Matt. xviii.; if by the Canon, Civil Law, and God's Word, it be required, that there must be two Witnesses at the least, bear with me if I desire one. I would not desire to live, if I were privy to Cobham's proceedings. I have been a slave, a villain, a fool, if I had endeavoured to set up Arabella, and refused so gracious a lord and sovereign. But urge your proofs.

Lord Chief-Justice—You have offered Questions on diverse Statutes, all which mention two accusers in case of Indictments: you have deceived yourself, for the laws of 25 Edw. 3rd and 5 Edw. 6th are repealed. It sufficeth now if there be proofs made either under hand, or by testimony of Witnesses, or by oaths; it needs not the Subscription of the party, so there be hands of credible men to testify the Examination.

Raleigh—It may be an error in me; and if those laws be repealed, yet I hope the equity of them remains still; but if you affirm it, it must be a law to posterity. The Proof of the Common Law is by

witness and jury: let Cobham be here, let him speak it. Call my accuser before my face, and I have done.

Attorney—*Scientia sceleris est mera ignorantia.* You have read the letter of the law, but understand it not. Here was your anchor-hold, and your rendezvous: you trust to Cobham, either Cobham must accuse you, or nobody; if he did, then it would not hurt you, because he is but one Witness; if he did not, then you are safe.

Raleigh—If ever I read a word of the law or statutes before I was Prisoner in the Tower, God confound me.

The Attorney-General then points out that Cobham confessed that he had a passport to travel, by means of which he intended to go to the Archduke, and then to the King of Spain to raise money, after which Raleigh confessed that he was to have joined him in Jersey on his way home. Cobham had further stated that nothing could be settled as to the distribution of the money they were to receive without Raleigh's concurrence. In reply, Raleigh pointed out that all this depended on Cobham's accusation, which he had never signed or vouched. 'I beseech you, my lords, let Cobham be sent for, charge him on his soul, on his allegiance to the King; if he affirm it, I am guilty.'

Lord Cecil—It is the Accusation of my lord Cobham, it is the Evidence against you: must it not be of force without his subscription? I desire to be

resolved by the Judges whether by the law it is not a forcible argument of evidence.

JUDGES—My lord, it is.

RALEIGH—The king at his coronation is sworn *In omnibus Judiciis suis æquitatem, non rigorem legis, observare.* By the rigour and cruelty of the law it may be a forcible evidence.

LORD CHIEF-JUSTICE—That is not the rigour of the law, but the justice of the law; else when a man hath made a plain Accusation, by practice he might be brought to retract it again.

RALEIGH—Oh my lord, you may use equity.

LORD CHIEF-JUSTICE—That is from the king; you are to have justice from us.

LORD ANDERSON—The law is, if the matter be proved to the jury, they must find you guilty; for Cobham's Accusation is not only against you, there are other things sufficient.

LORD CECIL—Now that sir Walter Raleigh is satisfied, that Cobham's Subscription is not necessary, I pray you, Mr. Attorney, go on.

RALEIGH—Good Mr. Attorney, be patient, and give me leave.

LORD CECIL—An unnecessary patience is a hindrance; let him go on with his proofs, and then repel them.

RALEIGH—I would answer particularly.

LORD CECIL—If you would have a table and pen and ink, you shall.

Then paper and ink was given him. Here the Clerk of the Crown read the Letter, which the lord Cobham did write in July, which was to the effect of his former Examination; further saying, 'I have disclosed all: to accuse any one falsely, were to burden my own conscience.'

ATTORNEY—Read Copley's Confession the 8th of June; He saith, He was offered 1000 crowns to be in this action.

Here Watson's Additions were read. 'The great mass of Money from the count was impossible,' etc.

Brook's Confession read. 'There have Letters passed,' saith he, 'between Cobham and Aremberg, for a great sum of money to assist a second action, for the surprizing of his majesty.'

ATTORNEY—It is not possible it was of passion: for it was in talk before three men, being severally examined, who agreed in the sum to be bestowed on discontented persons; That Grey should have 12,000 crowns, and Raleigh should have 8,000, or 10,000 crowns.

Cobham's Examination, July 18.

If the money might be procured (saith he) then a man may give pensions. Being asked if a pension should not be given to his brother Brook, he denied it not.

Lawrency's Examination.

Within five days after Aremberg arrived, Cobham resorted unto him. That night that Cobham went to Aremberg with Lawrency, Raleigh supped with him.

ATTORNEY—Raleigh must have his part of the Money, therefore he is now a traitor. The crown shall never stand one year on the head of the king (my master) if a traitor may not be condemned by Circumstances: for if A tells B and B tells C and C D, etc., you shall never prove treason by two Witnesses.

Raleigh's Examination was read.

He confesseth Cobham offered him 8,000 crowns, which he was to have for the furtherance of the peace between England and Spain, and that he should have it within three days. To which he said, he gave this answer; When I see the Money, I will tell you more: for I had thought it had been one of his ordinary idle conceits, and therefore made no Account thereof.

RALEIGH—The Attorney hath made a long narration of Copley, and the Priests, which concerns me nothing, neither know I how Cobham was altered. For he told me if I would agree to further the Peace, he would get me 8,000 crowns. I asked him, Who shall have the rest of the money? He said, I will offer such a nobleman (who was not named) some of the Money. I said, He will not be persuaded by you, and he will extremely hate you for such a motion. Let me be pinched to death with hot irons, if ever I knew there was any intention to bestow the money on discontented persons. I had made a discourse against the peace, and would have printed it; if Cobham changed his mind, if the Priests, if Brook had any such intent, what is that to me? They must answer for it. He offered me the Money before Aremberg came, that is difference of time.

SERJ. PHILIPS—Raleigh confesseth the matter, but avoideth it by distinguishing of times. You said, it was offered you before the coming of Aremberg, which is false. For you being examined whether you should have such money of Cobham, or not, you said, Yea, and that you should have it within two or three days. *Nemo moriturus præsumitur mentiri.*

LORD HENRY HOWARD—Alledge me any ground or

cause, wherefore you gave ear to my lord Cobham for receiving pensions, in matters you had not to deal with.

RALEIGH—Could I stop my lord Cobham's mouth?

LORD CECIL—Sir Walter Raleigh presseth, that my lord Cobham should be brought face to face. If he asks things of favour and grace, they must come only from him that can give them. If we sit here as commissioners, how shall we be satisfied whether he ought to be brought, unless we hear the Judges speak?

LORD CHIEF-JUSTICE—This thing cannot be granted, for then a number of treasons should flourish: the Accuser may be drawn by practice whilst he is in person.

JUSTICE GAWDY—The Statute you speak of concerning two Witnesses in case of Treason, is found to be inconvenient, therefore by another law it was taken away.

RALEIGH—The common trial of England is by Jury and Witnesses.

LORD CHIEF-JUSTICE—No, by examination: if Three conspire a Treason, and they all confess it; here is never a Witness, yet they are condemned.[1]

JUSTICE WARBURTON—I marvel, sir Walter, that you, being of such experience and wit, should stand on this point; for so many horse-stealers may escape, if they may not be condemned without witnesses. If one should rush into the king's Privy Chamber, whilst he is alone, and kill the king (which God forbid), and this man be met coming with his sword all bloody; shall not he be condemned to death? My lord Cobham hath, perhaps, been laboured withal; and to save you,

[1] See *ante*, p. 7.

his old friend, it may be that he will deny all that which he hath said.

RALEIGH—I know not how you conceive the Law.

LORD CHIEF-JUSTICE—Nay, we do not conceive the Law, but we know the Law.

RALEIGH—The wisdom of the law of God is absolute and perfect: *Hæc fac et vives*, etc. But now by the Wisdom of the State, the Wisdom of the Law is uncertain. Indeed, where the Accuser is not to be had conveniently, I agree with you; but here my Accuser may; he is alive, and in the house. Susanna had been condemned, if Daniel had not cried out, 'Will you condemn an innocent Israelite, without examination or knowledge of the truth?' Remember it is absolutely the Commandment of God: If a false witness rise up you shall cause him to be brought before the Judges; if he be found false, he shall have the punishment which the accused should have had. It is very sure for my lord to accuse me is my certain danger, and it may be a means to excuse himself.

LORD CHIEF-JUSTICE—There must not such a gap be opened for the destruction of the king, as would be if we should grant this. You plead hard for yourself, but the laws plead as hard for the king. I did never hear that course to be taken in a case of Treason, as to write one to another, or speak one to another, during the time of their imprisonment. There hath been intelligence between you; and what under-hand practices there may be, I know not. If the circumstances agree not with the Evidence, we will not condemn you.

RALEIGH—The king desires nothing but the knowledge of the truth, and would have no advantage taken by severity of the law. If ever we had a gracious

king, now we have; I hope, as he is, such are his ministers. If there be but a trial of five marks at Common Law, a witness must be deposed. Good my lords, let my Accuser come face to face, and be deposed.

Lord Chief-Justice—You have no law for it: God forbid any man should accuse himself upon his oath!

Attorney—The law presumes, a man will not accuse himself to accuse another. You are an odious man, for Cobham thinks his cause the worse that you are in it. Now you shall hear of some stirs to be raised in Scotland.

Part of Copley's Examination.

'Also Watson told me, that a special person told him, that Aremberg offered to him 1000 crowns to be in that action; and that Brook said, the stirs in Scotland came out of Raleigh's head.'

Raleigh—Brook hath been taught his Lesson.

Lord Henry Howard—This examination was taken before. Did I teach him his lesson?

Raleigh—I protest before God, I meant it not by any privy-counsellor; but because money is scant, he will juggle on both sides.

Raleigh's Examination.

'The way to invade England, were to begin with Stirs in Scotland.'

Raleigh—I think so still: I have spoken it to divers of the lords of the Council, by way of discourse and opinion.

Attorney—Now let us come to those words, 'of destroying the king and his cubs.'

Raleigh—O barbarous! If they, like unnatural

villains, should use those words, shall I be charged with them? I will not hear it; I was never any Plotter with them against my country, I was never false to the crown of England. I have spent 4000 pounds of my own against the Spanish Faction, for the good of my country. Do you bring the words of these hellish spiders, Clark, Watson, and others against me?

ATTORNEY—Thou hast a Spanish heart, and thyself art a Spider of Hell; for thou confesseth the king to be a most sweet and gracious prince, and yet hast conspired against him.

Watson's Examination read.

'He said, that George Brook told him twice, That his brother, the lord Cobham, said to him, that you are but on the bye, but Raleigh and I are on the main.'

Brook's Examination read.

'Being asked what was meant by this Jargon, the Bye and the Main? he said, That the lord Cobham told him, that Grey and others were in the Bye, he and Raleigh were on the Main. Being asked, what exposition his brother made of these words? He said, he is loath to repeat it. And after saith, by the Main was meant the taking away of the king and his issue; and thinks on his conscience, it was infused into his brother's head by Raleigh.'

Cobham's Examination read.

'Being asked, if ever he had said, "It will never be well in England, till the king and his cubs were

taken away"; he said, he had answered before, and that he would answer no more to that point.'

RALEIGH—I am not named in all this: there is a law of two sorts of Accusers; one of his own knowledge, another by hear-say.

EARL OF SUFFOLK—See the Case of Arnold.

LORD CHIEF-JUSTICE—It is the Case of sir Will. Thomas, and sir Nicholas Arnold.

RALEIGH—If this may be, you will have any man's life in a week.

ATTORNEY—Raleigh saith, that Cobham was in a passion when he said so. Would he tell his brother anything of malice against Raleigh, whom he loved as his life?

RALEIGH—Brook never loved me; until his brother had accused me, he said nothing.

LORD CECIL—We have heard nothing that might lead us to think that Brook accused you, he was only in the surprizing Treason: for by accusing you he should accuse his brother.

RALEIGH—He doth not much care for that.

LORD CECIL—I must judge the best. The accusation of his brother was not voluntary; he pared everything as much as he could to save his brother.

Cobham's Examination read.

'He saith he had a Book written against the Title of the King, which he had of Raleigh, and that he gave it to his brother Brook: and Raleigh said it was foolishly written.'

ATTORNEY—After the king came within 12 miles of London, Cobham never came to see him; and intended to travel without seeing the queen and the

prince. Now in this discontentment you gave him the Book, and he gave it his brother.

RALEIGH—I never gave it him, he took it off my table. For I well remember a little before that time I received a Challenge from sir Amias Preston,[1] and for that I did intend to answer it, I resolved to leave my estate settled, therefore I laid out all my loose papers, amongst which was this Book.

LORD HOWARD—Where had you this Book?

RALEIGH—In the old Lord Treasurer's Study, after his death.

LORD CECIL—Did you ever shew or make known this Book to me?

RALEIGH—No, my lord.

LORD CECIL—Was it one of the books which was left to me or my brother?

RALEIGH—I took it out of the study in my Lord Treasurer's house in the Strand.

LORD CECIL—After my father's decease, sir Walter Raleigh desired to search for some Cosmographical descriptions of the Indies, which he thought were in his Study, and were not to be had in print; which I granted, and would have trusted sir Walter Raleigh as soon as any man: though since for some infirmities, the bands of my affection to him have been broken; and yet reserving my duty to the king my master, which I can by no means dispense with, by God, I

[1] Sir Amyas Preston came of a good family settled at Crichet in Somerset. He was lieutenant of the *Ark* in the attack on the Armada: and afterwards ravaged the West Indies, in company of Somers, in 1596. He was knighted by Howard during his Cadiz expedition. He seems to have been a friend of Essex; the challenge to Raleigh took place in 1601, but did not lead to a meeting.

love him, and have a great conflict within myself: but I must needs say, sir Walter used me a little unkindly to take the Book away without my knowledge: nevertheless, I need make no apology in behalf of my father, considering how useful and necessary it is for privy-counsellors and those in his place to intercept and keep such kind of writings; for whosoever should then search his study may in all likelihood find all the notorious Libels that were writ against the late queen; and whosoever should rummage my Study, or at least my Cabinet, may find several against the king, our Sovereign Lord, since his accession to the throne.

Raleigh—The Book was in Manuscript, and the late Lord Treasurer had wrote in the beginning of it with his own Hand, these words, 'This is the Book of Robert Snagg.' And I do own, as my lord Cecil has said, that I believe they may also find in my house almost all the Libels that have been writ against the late queen.

Attorney—You were no privy-counsellor, and I hope never shall be.

Lord Cecil—He was not a sworn counsellor of state, but he has been called to consultations.

Raleigh—I think it a very severe interpretation of the law, to bring me within compass of Treason for this Book, writ so long ago, of which nobody had read any more than the Heads of the Chapters, and which was burnt by G. Brook without my privity; admitting I had delivered the same to my lord Cobham, without allowing or approving, but discommending it, according to Cobham's first Accusation: and put the case, I should come to my lord Cecil, as I have often done, and find a stranger with him,

with a packet of Libels, and my lord should let me have one or two of them to peruse: this I hope is no Treason.

Attorney—I observe there was intelligence between you and Cobham in the Tower; for after he said it was against the king's Title, he denied it again.

Sir W. Wade—First my lord Cobham confesseth it, and after he had subscribed it, he revoked it again: to me he always said, that the drift of it was against the king's Title.

Raleigh—I protest before God, and all his works, I gave him not the Book.

(*Note.*—Sir Robert Wroth speaketh, or whispereth something secretly.)

Attorney—My lords, I must complain of Sir Robert Wroth; he says this Evidence is not material.

Sir R. Wroth—I never spake the words.

Attorney—Let Mr. Serjeant Philips testify whether he heard him say the word or no.

Lord Cecil—I will give my word for sir R. Wroth.

Sir R. Wroth—I will speak as truly as you, Mr. Attorney, for my God, I never spake it.

Lord Chief-Justice—Wherefore should this Book be burnt?

Raleigh—I burned it not.

Serjeant Philips—You presented your friend with it when he was discontented. If it had been before the queen's death, it had been a less matter; but you gave it him presently when he came from the king, which was the time of his discontentment.

Raleigh—Here is a Book supposed to be treasonable; I never read it, commended it, or delivered it, nor urged it.

Attorney—Why, this is cunning.

RALEIGH—Every thing that doth make for me is cunning, and every thing that maketh against me is probable.

ATTORNEY—Lord Cobham saith, that Kemish came to him with a letter torn, and did wish him not to be dismayed, for one witness could not hurt him.

RALEIGH—This poor man hath been close prisoner these 18 weeks; he was offered the rack to make him confess. I never sent any such message by him; I only writ to him, to tell him what I had done with Mr. Attorney; having of his at that time a great pearl and a diamond.

LORD H. HOWARD—No circumstance moveth me more than this. Kemish was never on the rack, the king gave charge that no rigour should be used.

COMMISSIONERS—We protest before God, there was no such matter intended to our knowledge.

RALEIGH—Was not the Keeper of the Rack sent for, and he threatened with it?

SIR W. WADE—When Mr. Solicitor and myself examined Kemish, we told him he deserved the Rack, but did not threaten him with it.

COMMISSIONERS—It was more than we knew.

Cobham's Examination read.

He saith, Kemish brought him a Letter from Raleigh, and that part which was concerning the Lords of the Council was rent out; the Letter contained that he was examined, and cleared himself of all; and that the lord H. Howard said, because he was discontent, he was fit to be in the action. And further, that Kemish said to him from Raleigh that he should be of good comfort, for one witness could not condemn a man for treason.

Lord Cecil—Cobham was asked whether, and when, he heard from you? He said, every day.

Raleigh—Kemish added more, I never bade him speak those words.

(*Note.*—Mr. Attorney here offered to interrupt him.)

Lord Cecil—It is his last discourse; give him leave Mr. Attorney.

Raleigh—I am accused concerning Arabella, concerning Money out of Spain. My Lord Chief-Justice saith, a man may be condemned with one witness, yea, without any witness. Cobham is guilty of many things, *Conscientia mille testes*; he hath accused himself, what can he hope for but mercy? My lords, vouchsafe me this grace: Let him be brought, being alive, and in the house; let him avouch any of these things, I will confess the whole indictment and renounce the king's mercy.

Lord Cecil—Here hath been a touch of the lady Arabella Stuart, a near kinswoman of the king's. Let us not scandal the innocent by confusion of speech: she is as innocent of all these things as I, or any man here; only she received a Letter from my lord Cobham, to prepare her; which she laughed at, and immediately sent it to the king. So far was she from discontentment, that she laughed him to scorn. But you see how far the count of Aremberg did consent.

The lord Admiral (Nottingham) being by in a Standing, with the lady Arabella, spake to the court: The lady doth here protest upon her salvation, that she never dealt in any of these things, and so she willed me to tell the court.

Lord Cecil—The lord Cobham wrote to my lady Arabella, to know if he might come to speak with

her, and gave her to understand, that there were some about the king that laboured to disgrace her; she doubted it was but a trick. But Brook saith his brother moved him to procure Arabella to write Letters to the king of Spain; but he saith, he never did it.

RALEIGH—The lord Cobham hath accused me, you see in what manner he hath forsworn it. Were it not for his Accusation, all this were nothing. Let him be asked, if I knew of the letter which Lawrency brought to him from Aremberg. Let me speak for my life, it can be no hurt for him to be brought; he dares not accuse me. If you grant me not this favour, I am strangely used; Campian[1] was not denied to have his accusers face to face.

[1] Edmund Campian (1540-1581), the famous Jesuit, was educated at Christ's Hospital, and afterward at St. John's, Oxford. He took an oath against the Pope's supremacy on proceeding to a Master's degree, in 1564; but was probably always a Catholic at heart. He welcomed Elizabeth to Oxford in a Latin oration in 1566, and was subsequently patronised by Leicester and Cecil. He took deacon's orders, and went to Dublin in the hope of having the direction of the Dublin University, which it was proposed to resuscitate. He fell under suspicion as a Papist, but managed to escape arrest and return to England, whence, after hearing Dr. Storey's trial in 1571, he repaired to Douay, and formally renounced the Protestant faith. He went to Rome, became a Jesuit, and was among the first to be despatched to England on a Jesuit mission. He landed at Dover in 1580, and was arrested, but released and went to London. After various adventures in different parts of the country he was again arrested, and brought to London in 1581. He was rigorously examined as to his mission, but concealed the fact that he was charged to persuade Catholics to separate themselves from the English communion. Afterwards he was tortured,

Lord Chief-Justice—Since he must needs have justice, the acquitting of his old friend may move him to speak otherwise than the truth.

Raleigh—If I had been the infuser of all these Treasons into him; you gentlemen of the jury, mark this, he said I have been the cause of all his miseries, and the destruction of his house, and that all evil hath happened unto him by my wicked counsel; if this be true, whom hath he cause to accuse and to be revenged on, but on me? and I know him to be as revengeful as any man on earth.

Attorney—He is a party, and may not come; the law is against it.

Raleigh—It is a toy to tell me of law; I defy such law, I stand on the fact.

Lord Cecil—I am afraid my often speaking (who am inferior to my lords here present) will make the world think that I delight to hear myself talk. My affection to you, sir Walter, was not extinguished, but slaked in regard to your deserts. You know the law of the realm (to which your mind doth not contest) that my lord Cobham cannot be brought.

Raleigh—He may be, my lord.

Lord Cecil—But dare you challenge it?

Raleigh—No.

Lord Cecil—You say that my lord Cobham, your

and a report, probably false, was spread abroad that he had betrayed his companions. He was then called upon to meet his adversaries in a public disputation, which he did with great courage and skill. After being again tortured, he was tried and convicted of treason in stirring up sedition. His trial was most unfairly conducted, and it seems probable that the charge was altogether false. He was executed on 1st December 1581.

main accuser, must come to accuse you. You say he hath retracted: I say, many particulars are not retracted. What the validity of all this is, is merely left to the jury. Let me ask you this, If my lord Cobham will say you were the only instigator of him to proceed in the treason, dare you put yourself on this?

RALEIGH—If he will speak it before God and the king, that ever I knew of Arabella's matter or the money out of Spain, or of the surprizing treason; I put myself on it, God's will and the king's be done with me.

LORD H. HOWARD—How! If he speak things equivalent to that you have said?

RALEIGH—Yes, in the main point.

LORD CECIL—If he say, you have been the instigator of him to deal with the Spanish king, had not the Council cause to draw you hither?

RALEIGH—I put myself on it.

LORD CECIL—Then, sir Walter, call upon God and prepare yourself; for I do verily believe that my lords will prove this. Excepting your faults (I call them no worse), by God I am your friend. The heat and passion in you, and the Attorney's zeal in the king's service, make me speak this.

RALEIGH—Whosoever is the workman, it is reason he should give an account of his work to his workmaster. But let it be proved that he acquainted me with any of his conferences with Aremberg: he would surely have given me some account.

LORD CECIL—That follows not: if I set you on work, and you give me no account, am I therefore innocent?

ATTORNEY—For the lady Arabella, I said she was

never acquainted with the matter. Now that Ral
had conference in all these treasons, it is manif
The jury hath heard the matter. There is one D
a pilot, that being in Lisbon met with a Portu
gentleman, who asked him if the king of Engl
was crowned yet: to whom he answered, 'I th
not yet, but he shall be shortly.' Nay, saith
Portugal, that shall never be, for his throat wil
cut by Don Raleigh and Don Cobham before he
crowned.

Dyer was called and sworn, and delivered
evidence.

DYER—I came to a merchant's house in Lisbon
see a boy that I had there; there came a gentlem
into the house, and enquiring what countryma
was, I said, an Englishman. Whereupon he as
me, if the king was crowned? And I answered,
but that I hoped he should be shortly. Nay, s
he, he shall never be crowned; for Don Raleigh
Don Cobham shall cut his throat ere that day com

RALEIGH—What infer you upon this?

ATTORNEY—That your treason hath wings.

RALEIGH—If Cobham did practice with Aremb
how could it not but be known in Spain? Why
they name the Duke of Buckingham with J
Straw's treason, and the Duke of York with J
Cade, but that it was to countenance his treas
Consider, you Gentlemen of the Jury, there is
cause so doubtful which the king's council can
make good against the law. Consider my disabi
and their ability; they prove nothing against
only they bring the accusation of my lord Cobh
which he hath repented and lamented as heartily
if it had been for an horrible murder: for he kn

that all this sorrow that should come to me, is by his means. Presumptions must proceed from precedent or subsequent facts. I have spent 40,000 crowns against the Spaniards. I had not purchased £40 a year. If I had died in Guiana, I had not left 300 marks a year to my wife and son. I that have always condemned Spanish faction, methinks it is a strange thing that now I should affect it! Remember what St. Austin says, *Sic judicate tanquam ab alio mox judicandi; unus judex, unum tribunal.* If you will be contented on presumptions to be delivered up to be slaughtered, to have your wives and children turned into the streets to beg their bread; if you will be contented to be so judged, judge so of me.

Serj. Philips—I hope to make this so clear, as that the wit of man shall have no colour to answer it. The matter is treason in the highest degree, the end to deprive the king of his crown. The particular treasons are these: first, to raise up rebellion, and to effect that, to procure money; to raise up tumults in Scotland, by divulging a treasonable Book against the king's right to the crown; the purpose, to take away the life of his majesty and his issue. My lord Cobham confesseth sir Walter to be guilty of all these treasons. The question is, whether he be guilty as joining with him, or instigating of him? The course to prove this was by my lord Cobham's accusation. If that be true, he is guilty, if not he is clear. So whether Cobham say true, or Raleigh, that is the question. Raleigh hath no answer but the shadow of as much wit as the wit of man can devise. He useth his bare denial; the denial of a defendant must not move the jury. In the Star Chamber, or in the Chancery, for matter of title, if the defendant be called in question, his denial on

his oath is no evidence to the court to clear him, he doth it *in propria causa*; therefore much less in matters of treason. Cobham's testification against him before them, and since, hath been largely discoursed.

RALEIGH—If truth be constant, and constancy be in truth, why hath he forsworn that that he hath said? You have not proved any one thing against me by direct proofs, but all by circumstances.

ATTORNEY—Have you done? The king must have the last.

RALEIGH—Nay, Mr. Attorney, he which speaketh for his life, must speak last. False repetitions and mistakings must not mar my cause. You should speak *secundum allegata et probata*. I appeal to God and the king in this point whether Cobham's accusation is sufficient to condemn me.

ATTORNEY—The king's safety and your clearing cannot agree. I protest before God, I never knew a clearer treason.

RALEIGH—I never had intelligence with Cobham since I came to the Tower.

ATTORNEY—Go to, I will lay thee upon thy back, for the confidentest traitor that ever came at a bar. Why should you take 8,000 crowns for a peace?

LORD CECIL—Be not so impatient, good Mr. Attorney. Give him leave to speak.

ATTORNEY—If I may not be patiently heard, you will encourage traitors and discourage us. I am the king's sworn servant, and must speak; if he be guilty, he is a traitor; if not, deliver him.

(*Note.*—Here Mr. Attorney sat down in a chafe and would speak no more until the commissioners urged and intreated him. After much ado, he went on, and made a long repetition of all the evidence for the

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direction of the jury; and at the repeating of some things, sir Walter Raleigh interrupted him and said he did him wrong.)

ATTORNEY—Thou art the most vile and execrable traitor that ever lived.

RALEIGH—You speak indiscreetly, barbarously, and uncivilly.

ATTORNEY—I want words sufficient to express thy viperous treasons.

RALEIGH—I think you want words indeed, for you have spoken one thing half a dozen times.

ATTORNEY—Thou art an odious fellow, thy name is hateful to all the realm of England for thy pride.

RALEIGH—It will go near to prove a measuring cast between you and me, Mr. Attorney.

ATTORNEY—Well, I will now make it appear to the world that there never lived a viler viper upon the face of the earth than thou.—And there withal he drew a letter out of his pocket saying further—My lords, you shall see this is an agent that hath writ a treatise against the Spaniard, and hath ever so detested him; this is he that hath spent so much money against him in service; and yet you shall all see whether his heart be not wholly Spanish. The lord Cobham, who of his own nature was a good and honourable gentleman, till overtaken by this wretch now finding his conscience heavily burdened with some courses which the subtlety of this traitor had drawn him into, my lords, he could be at no rest with himself, nor quiet in his thoughts, until he was eased of that heavy weight: out of which passion of his mind and discharge of his duty to his prince and his conscience to God, taking it upon his salvation that he wrote nothing but the truth, with his own hands he wrote this letter. Now

sir, you shall see whether you had intelligence with Cobham within four days before he came to the Tower. If he be wholly Spanish, that desired a pension of £1500 a year from Spain, that Spain by him might have intelligence, then Raleigh is a traitor: he hath taken an apple and pinned a letter into it and threw it into my lord Cobham's window, the contents whereof were this, 'It is doubtful whether we shall be proceeded with or no, perhaps you shall not be tried.' This was to get a retractation. Oh! it was Adam's apple whereby the devil did deceive him. Further he wrote thus, 'Do not as my lord of Essex did; take heed of a preacher, for by his persuasion he confessed and made himself guilty.'[1] I doubt not but this day God shall have as great a conquest by this traitor, and the Son of God shall be as much glorified as when it was said *Vicisti Galilæe*; you know my meaning. What though Cobham retracted, yet he could not rest or sleep until he had confirmed it again. If this be not enough to

[1] 'Take heed of a preacher as Essex did.' Essex admitted his guilt at the end of his trial. Howell (*State Trials*, vol. i. p. 1358) says: 'On the 25th of February 1601, which was the day appointed for his execution, Thomas Mountford and William Barlow, doctors of divinity, with Ashton, the minister of the Church in the Tower, were sent unto him early to administer Christian consolation to his soul. In the presence of these men he gave thanks to Almighty God from the bottom of his heart, that his designs, which were so dangerous to the state, succeeded not. He told them he had now looked thoroughly and seriously into his sin, and was heartily sorry he had so obstinately defended an unjust cause at the bar. . . . He acknowledged how worthy he was to be spued out (these were his words) by the Commonwealth for the wickedness of his enterprize, which he likened to a leprosy spread far and near, and that he had infected many.'

prove him a traitor, the king my master shall not live three years to an end.

(*Note.*—Here Mr. Attorney produced the lord Cobham's letter, and as he read it, inserted some speeches.)

'I have thought fit to set down this to my lords, wherein I protest on my soul to write nothing but the truth. I am now come near the period of my time, therefore I confess the whole truth before God and his angels. Raleigh, four days before I came from the Tower, caused an apple' (Eve's apple) 'to be thrown in at my chamber window; the effect of it was, to intreat me to right the wrong that I had done him, in saying, "that I should have come home by Jersey"; which under my hand to him I have retracted. His first Letter I answered not, which was thrown in the same manner; wherein he prayed me to write him a Letter, which I did. He sent me word, that the Judges met at Mr. Attorney's house, and that there was good hope the proceedings against us should be stayed: he sent me another time a little tobacco. At Aremberg's coming, Raleigh was to have procured a pension of £1500 a year, for which he promised, that no action should be against Spain, the Low Countries, or the Indies, but he would give knowledge beforehand. He told me, the States had audience with the king.'—(*Attorney.* 'Ah! is not this a Spanish heart in an English body?') 'He hath been the original cause of my ruin; for I had no dealing with Aremberg, but by his instigation. He hath also been the cause of my discontentment; he advised me, not to be overtaken by preachers, as Essex was; and that the king would better allow of a constant denial, than to accuse any.'

Attorney — Oh, damnable atheist! He hath

learned some Text of Scripture to serve his own purpose, but falsely alledged. He counsels him not to be counselled by preachers, as Essex was: He died the child of God, God honoured him at his death; thou wast by when he died: *Et lupus et turpes instant morientibus Ursæ.* He died indeed for his offence. The king himself spake these words: 'He that shall say, Essex dies not for Treason, is punishable.'

RALEIGH—You have heard a strange tale of a strange man. Now he thinks, he hath matter enough to destroy me; but the king and all of you shall witness, by our deaths, which of us was the ruin of the other. I bid a poor fellow throw in the Letter at his window, written to this purpose; 'You know you have undone me, now write three lines to justify me.' In this I will die, that he hath done me wrong: Why did not he acquaint him with my dispositions?

LORD CHIEF-JUSTICE—But what say you now of the Letter, and the Pension of £1500 per annum?

RALEIGH—I say, that Cobham is a base, dishonourable, poor soul.

ATTORNEY—Is he base? I return it into thy throat on his behalf: but for thee he had been a good subject.

LORD CHIEF-JUSTICE—I perceive you are not so clear a man, as you have protested all this while; for you should have discovered these matters to the king.

(*Note.*—Here Raleigh pulled a Letter out of his pocket, which the lord Cobham had written to him, and desired my lord Cecil to read it, because he only knew his hand; the effect of it was as follows:)

Cobham's Letter of Justification to Raleigh.

'Seeing myself so near my end, for the discharge of my own conscience, and freeing myself from your

blood, which else will cry vengeance against me; I protest upon my salvation I never practised with Spain by your procurement; God so comfort me in this my affliction, as you are a true subject, for any thing that I know. I will say as Daniel, *Purus sum a sanguine hujus.* God have mercy upon my soul, as I know no Treason by you.'

RALEIGH—Now I wonder how many souls this man hath. He damns one in this Letter and another in that.

(Here was much ado: Mr. Attorney alledged, that his last Letter was politicly and cunningly urged from the lord Cobham, and that the first was simply the truth; and lest it should seem doubtful that the first Letter was drawn from my lord Cobham by promise of mercy, or hope of favour, the Lord Chief-Justice willed that the Jury might herein be satisfied. Whereupon the earl of Devonshire delivered that the same was mere voluntary, and not extracted from the lord Cobham upon any hopes or promise of Pardon.)

This concluded the evidence, and the jury having retired for less than a quarter of an hour, they returned, and brought in a verdict of Guilty.

When asked whether he had anything to say why judgment should not be passed upon him, Raleigh said that he had never practised with Spain, that he never knew that Cobham meant to get there ('I will ask no mercy at the king's hands, if he will affirm it'), that he never knew of the practice with lady Arabella, that he knew nothing of Cobham's practice with Aremberg, nor of the surprising Treason.

The Lord Chief-Justice replied that he was

persuaded that Cobham had accused him truly, and reminded him that he had been offered a pension to act as a spy for Spain. Ralcigh answered that he submitted himself, and his 'son of tender years, unbrought up,' to the king's mercy.

Lord Chief-Justice — I thought I should never have seen this day, to have stood in this place to give Sentence of Death against you; because I thought it impossible, that one of so great parts should have fallen so grievously. God hath bestowed on you many benefits. You had been a man fit and able to have served the king in good place. You had brought yourself into a good state of living; if you had entered into a good consideration of your estate and not allowed your own wit to have intrapped yourself, you might have lived in good comfort. It is best for man not to seek to climb too high, lest he fall: nor yet to creep too low, lest he be trodden on. It was the Poesy of the wisest and greatest Counsellor of our time in England, *In medio spatio mediocria firma locantur.* You might have lived well with £3000 a year, for so have I heard your revenues to be. I know nothing might move you to be discontented: but if you had been down, you know fortune's wheel, when it is turned down, riseth again. I never heard that the king took away anything from you but the Captainship of the Guard, which he did with very good reason, to have one of his own knowledge, whom he might trust, in that place. You have been taken for a wise man, and so have shewed wit enough this day. Again for Monopolies for Wine, etc., if the king had said, It is a matter that offends my people, should I burden them for your private good?

I think you could not well take it hardly, that his subjects were eased, though by your private hindrance. Two vices have lodged chiefly in you; one is an eager ambition, the other corrupt covetousness. Ambition, in desiring to be advanced to equal grace and favour, as you have been beforetime; that grace you had then, you got not in a day or year. For your covetousness, I am sorry to hear that a gentleman of your wealth should become a base Spy for the enemy, which is the vilest of all other; wherein on my conscience, Cobham hath said true: by it you would have increased your living £1500 a year. This covetousness is like canker, that eats the iron place where it lives. Your case being thus, let it not grieve you if I speak a little out of zeal, and love to your good. You have been taxed by the world, with the Defence of the most heathenish and blasphemous Opinions, which I list not to repeat, because Christian ears cannot endure to hear them, nor the authors and maintainers of them be suffered to live in any Christian Commonwealth. You know what men said of Harpool. You shall do well, before you go out of the world, to give satisfaction therein, and not die with these imputations on you. Let not any devil persuade you to think there is no eternity in Heaven: for if you think thus, you shall find eternity in Hell-fire. In the first accusation of my lord Cobham, I observed his manner of speaking; I protest before the living God, I am persuaded he spoke nothing but the truth. You wrote, that he should not in any case confess any thing to a Preacher, telling him an example of my lord of Essex, that noble earl that is gone; who, if he had not been carried away with others, had lived in honour to this

day among us: he confessed his offences, and obtained mercy of the Lord; for I am verily persuaded in my heart, he died a worthy servant of God. Your conceit of not confessing anything is very inhuman and wicked. In this world is the time for confessing, that we may be absolved in the Day of Judgment. You have shewed a fearful sign of denying God, in advising a man not to confess the truth. It now comes to my mind, why you may not have your Accuser come face to face: for such an one is easily brought to retract, when he seeth there is no hope of his own life. It is dangerous that any Traitors should have access to, or conference with one another; when they see themselves must die, they will think it best to have their fellow live, that he may commit the like treason again, and so in some sort seek revenge.—Now it resteth to pronounce the Judgment, which I wish you had not been this day to have received of me: for if the fear of God in you had been answerable to your other great parts, you might have lived to have been a singular good subject.

I never saw the like Trial, and hope I shall never see the like again.

The Judgment.

But since you have been found guilty of these horrible Treasons, the judgment of this court is, That you shall be had from hence to the place whence you came, there to remain until the day of execution; and from thence you shall be drawn upon a hurdle through the open streets to the place of execution, there to be hanged and cut down alive, and your body shall be opened, your heart and bowels plucked out, and your privy members cut off, and thrown into

the fire before your eyes; then your head to be stricken off from your body, and your body shall be divided into four quarters, to be disposed of at the king's pleasure: And God have mercy upon your soul.

The execution of sentence on Raleigh was deferred, and he was committed to the Tower, where he remained as a State prisoner for the next thirteen years, engaged in philosophic and scientific pursuits and the education of Prince Henry, the then Prince of Wales. All this time, however, he remained a person of considerable political importance, owing to the assistance which the opponents of the proposed marriage between Prince Charles and the Spanish Infanta hoped to derive from his general popularity, and his reputation as the leading representative of English hatred of Spain. At last, in 1616, he was released from custody, though he was still technically a condemned man, and allowed to prepare his expedition in search of the gold-mine which he believed to exist in Guiana, on the banks of the Orinoco. The expedition was in fact promoted by Winwood, then Secretary, and Villiers, who was at the moment in the hands of the enemies of Somerset and the Spanish faction, and was always intended by them as an act of hostility to Spain. How far Raleigh entered into it in the spirit in which he represented it to the King, may be judged of from the fact that he was ready at one time to

direct it against the Spaniards in Genoa, as a relief to the Duke of Savoy, with whom they were then at war, and at another against the French, to support a rebellion against the Queen-Mother, then in power. He had also entered into negotiations with the French Court to bring his ships back to France rather than England when its end was accomplished. What Raleigh's actual intentions were when he started, it is impossible to say. But they were all frustrated when a force which he sent up the Orinoco was disastrously defeated in January 1617, in an attack on a Spanish settlement, which was unexpectedly discovered between the sea and the supposed situation of the mine. Raleigh returned a ruined man. He wished himself to go to France, but his crew forced him to promise to obtain their pardon from the King before he brought his ship into port. In the end, after having touched at Kinsale, he persuaded his men to sail for Plymouth. On landing he set out for London, but on the way met his cousin, Sir Lewis Stukely, Vice-Admiral of Devon, charged with orders to arrest him. Returning to Plymouth, he found means to put himself into communication with the captain of a French ship, lying in the Sound. Preparations were made for his escape in her, but Raleigh changed his mind when he was actually in a boat on his way to board her, and returned

to land. Soon after orders came that he should be brought up to London; but he managed to procure a little more time by feigning illness at Salisbury. Here he attempted to bribe Stukely to allow him to escape; but this proving in vain, he sent King, one of his captains, to hire a vessel at Gravesend to await him till he could go on board. The master, however, communicated the plan to a captain of one of the King's ships, who passed it on to Stukely, who thereupon communicated both attempts to the King. The next day Stukely sent the further information to the Court, that Le Clerc, the agent of the King of France, had offered Raleigh a passage on a French ship, and letters which would procure him an honourable reception in France, which Raleigh had refused on the ground that his escape was already provided for. Stukely was accordingly ordered to feign friendship with Raleigh, and to aid his attempt to escape, arresting him at the last moment; the object being to gain as much information as to his designs as he could from Raleigh, and possibly to obtain papers which would contain evidence against him and his confederates. Raleigh was thereupon taken to his own house in Bread Street, where he received a visit from Le Clerc, who repeated his offers, which were accepted, and he was finally arrested the next morning

as he was escaping in a boat with Stukely and King, and brought back once more to the Tower. Here Sir Thomas Wilson, an old spy of Queen Elizabeth's, was set to extract from him, if he could, an acknowledgment of the true character of his dealings with the French; and at length Raleigh wrote to the King admitting that he had sailed with a commission from the French admiral, and that La Chesnée, the interpreter to the French Ambassador, had offered to assist in his escape. Meanwhile a commission had been sitting to advise the King as to the best course for him to follow. In the end they reported that Raleigh could not be tried for any offence of which he had been guilty as an attainted man, that if he were executed at all, he must therefore be executed upon the old judgment, and that it would not be illegal to send him to execution on a simple warrant. At the same time, they recommended that he should be allowed something as near a trial as the circumstances admitted of; that there should be a public proceeding in which the witnesses should be publicly called, and that Raleigh should be heard in his own defence.

This, however, the King would not allow; and on the 28th of October 1618, Raleigh was brought up from the Tower to the King's Bench at Westminster to receive judgment. He was called on to say why execution should

not be awarded against him, and pleaded that whereas since judgment he had held the King's commission for a voyage beyond the seas, with power of life and death over others, he was discharged of the judgment; 'but the voyage, notwithstanding my endeavour, had no other success, but what was fatal to me, the loss of my son, and the wasting of my whole estate.'

Sir Edward Coke, now Lord Chief-Justice, ruled that this plea was bad, as the commission had not the effect of a pardon, 'for by words of a special nature, in case of treason, you must be pardoned, and not implicitly.' He then proceeded, not without dignity, to order that execution should be granted.

The night before the Execution, Sir Walter wrote the following Letters, the one to the King, the other to his Wife:—

Sir Walter Raleigh's Letter to the King.

'The life which I had, most mighty prince, the law hath taken from me, and I am now but the same earth and dust out of which I was made. If my offence had any proportion with your majesty's mercy, I might despair, or if my deserving had any quantity with your majesty's unmeasurable goodness, I might yet have hope; but it is you that must judge that, not I. Name, blood, gentility or estate, I have none; no not so much as a *vitam plantæ*: I have only a penitent soul in a body of iron, which moveth towards the loadstone of death, and cannot be with-

held from touching it, except your majesty's mercy turn the point towards me that expelleth. Lost I am for hearing of vain man, for hearing only, and never believing or accepting: and so little account I made of that speech of his, which was my condemnation (as my forsaking him doth truly witness), that I never remembered any such thing, till it was at my trial objected against me. So did he repay my care, who cared to make him good, which I now see no care of man can effect. But God (for my offence to him) hath laid this heavy burden upon me, miserable and unfortunate wretch that I am! But for not loving you (my sovereign), God hath not laid this sorrow on me; for he knows (with whom I am not in case to lie) that I honoured your majesty by fame, and loved and admired you by knowledge; so that whether I live or die, your majesty's loving servant I will live and die. If now, I write what seems not well-favoured, most merciful prince, vouchsafe to ascribe it to the counsel of a dead heart, and to a mind that sorrow hath confounded. But the more my misery is, the more is your majesty's mercy, if you please to behold it, and the less I can deserve, the more liberal your majesty's gift shall be: herein you shall only imitate God, by giving free life; and by giving it to such a one, from whom there can be no retribution, but only a desire to pay a lent life with the same great love, which the same great goodness shall bestow on it. This being the first letter that ever your majesty received from a dead man: I humbly submit myself to the will of God, my supreme lord, and shall willingly and patiently suffer whatsoever it shall please your majesty to afflict me withal.

'WALTER RALEIGH.'

Sir Walter Raleigh's Letter to his Wife.

'You shall now receive, my dear wife, my last words in these my last lines. My love I send you, that you may keep it when I am dead; and my counsel, that you may remember it when I am no more. I would not by my Will present you with sorrows, dear Besse, let them go into the grave with me, and be buried in the dust. And seeing that it is not God's will that I should see you any more in this life, bear it patiently, and with a heart like thyself. First, I send you all the thanks which my heart can conceive, or my words can rehearse, for your many travails, and care taken for me; which though they have not taken effect as you wished, yet my debt to you is not the less; but pay it I never shall in this world. Secondly, I beseech you, for the love you bare me living, do not hide yourself many days, but by your travels seek to help your miserable fortunes, and the right of your poor child. Thy mourning cannot avail me, I am but dust. Thirdly, you shall understand that my land was conveyed *bona fide* to my child: the Writings were drawn at Midsummer was twelve months, my honest cousin Brett can testify so much, and Dolberry too can remember somewhat therein. And I trust my blood will quench their malice that have cruelly murdered me, and that they will not seek also to kill thee and thine with extreme poverty. To what friend to direct thee I know not, for all mine have left me in the true time of trial. And I perceive that my death was determined from the first day. Most sorry I am, God knows, that being thus surprised with death I can leave you in no better estate. God is my witness, I meant you all my office of wines, or all that I could

have purchased by selling it, half my stuff, and all my jewels, but some one for the boy; but God hath prevented all my resolutions, that great God that ruleth all in all: but if you can live free from want, care for no more, the rest is but vanity. Love God, and begin betimes to repose yourself upon him, and therein shall you find true and lasting riches and endless comfort: for the rest, when you have travelled and wearied your thoughts over all sorts of worldly cogitations, you shall but sit down by sorrow in the end. Teach your son also to love and fear God whilst he is yet young, that the fear of God may grow with him; and then God will be a husband to you, and a father to him; a husband and a father that cannot be taken from you. Baily oweth me £500 and Adrian £600 in Jersey. I also have much owing me besides. The arrearages of the wines will pay your debts. And howsoever you do, for my soul's sake, pay all poor men. When I am gone, no doubt you shall be sought to, for the world thinks I was very rich. But take heed of the pretences of men, and their affections, for they last not but in honest and worthy men; and no greater misery can befall you in this life than to become a prey, and afterwards to be despised. I speak not this, God knows, to dissuade you from marriage, for it will be best for you both in respect of the world and of God. As for me, I am no more yours, nor you mine, death hath cut us asunder; and God hath divided me from the world and you from me. Remember your poor child for his father's sake who chose you and loved you in his happiest times. Get those Letters, if it be possible, which I writ to the lords, wherein I sued for life: God is my witness it was for you and yours that I desired life; but it is

true that I disdained myself for begging of it: for know it, my dear wife, that your son is the son of a true man, and who, in his own respect, despiseth death, and all his misshapen and ugly form. I cannot write much, God he knows how hardly I steal this time while others sleep, and it is also time that I should separate my thoughts from the world. Beg my dead body, which living was denied thee; and either lay it at Sherburne (and if the land continue) or in Exeter church by my father and mother. I can say no more, Time and Death call me away; the everlasting, powerful, infinite and omnipotent God, that Almighty God, who is goodness itself, the true life and true light, keep thee and thine, have mercy on me, and teach me to forgive my persecutors and accusers, and send us to meet in his glorious kingdom. My dear wife, farewell. Bless my poor boy. Pray for me, and let my good God hold you both in his arms. Written with the dying hand of sometime thy husband, but now alas overthrown.

'WALTER RALEIGH.'

On the 29th of October 1618, at nine o'clock in the morning, Raleigh was brought to the scaffold in Old Palace Yard. As he began to make his dying speech he saw Lords Arundel, Northampton, and Doncaster with other lords and knights at a window, but too far off to hear him easily. 'I will strain my voice,' said he, 'for I would willingly have your honours hear me'; whereupon Arundel and the others came down to the scaffold, and he having saluted them, began his speech again. He made no reference

to his original conviction, but occupied himself in justifying his conduct since his return from Guiana. He denied having had any commission from the French king, or knowing anything of a French agent till he met him in his lodgings. He never spoke dishonourably of the King. He did try to escape, but it was to save his life; and he feigned illness at Salisbury, but it was in the hope of being able to work upon the King's pity. He forgave the Frenchman, Le Clerc or La Chesnée, and Sir Lewis Stukeley, 'for I have received the Sacrament this morning of Mr. Dean of Westminster, and I have forgiven all men; but that they are perfidious, I am bound in charity to speak, that all men may take heed of them.' Stukeley, 'my keeper and kinsman,' had said that he had told him that Carew and Doncaster had advised him to escape; but this was not true; and it was needless that they should so tell him, for he was left as much as ten days together at liberty to go where he would. He had not offered Stukeley any money to procure his escape. So far was it from being the case that he was brought by force into England, his soldiers mutinied, and forced him to take an oath that he would not go there till they would; and it was only by great exertions that he persuaded them to go to Ireland, and then to England. He had only £100 with him when he started for Guiana, and of that he gave his wife

£25. 'It is said that I should be a persecutor of the death of the Earl of Essex, and that I stood in a window over against him when he suffered, and puffed out tobacco in disdain of him. God I take to witness, I shed tears for him when he died; and as I hope to look God in the face hereafter, my lord of Essex did not see my face when he suffered, for I was afar off in the Armoury when I saw him, but he saw not me. I confess indeed I was of the contrary faction, but I know my lord of Essex was a noble gentleman, and that it would be worse with me when he was gone; for I got the hate of those who wished me well before, and those that set me against him afterwards set themselves against me, and were my greatest enemies, and my soul hath many times been grieved that I was not nearer him when he died; because, as I understood afterwards, that he asked for me at his death to have been reconciled unto me.' And then proclamation having been made, he took leave of the lords, knights, and gentlemen on the scaffold, particularly of Lord Arundel, and asked to see the axe, and when it was brought to him, he felt along the edge of it, and smiling, said to the sheriff, 'This is a sharp medicine, but it is a physician that will cure all diseases.' He then prayed a little, and having made the sign, the executioner cut off his head with two blows.

CHARLES I

CHARLES I

THE following report was first published 'by Authority, to prevent false and impertinent relations.' It was licensed by Gilbert Mabbot, and, so far as one can judge from internal evidence, is rather the slightly amplified transcript of a barrister's note, than the work of anybody who in those days might represent a modern newspaper reporter. The whole is carelessly put together, as far as form is concerned; the grammar is often halting, and the sentences are not always finished. But I should suppose that all the arguments used on either side are fairly indicated, except in those places where it is suggested in a note that 'authority' made excisions. If such excisions were made, however, the fact that the gaps were left in their present state is evidence of the substantial accuracy and fairness of the rest of the report. Taking a purely legal view of the matter, which no one will pretend covers the whole, or indeed the most important part of the case, one does not see why, if Bradshaw left in as much as he did, he should not have

left in everything. From the point of view of defending counsel, Charles had an unanswerable case, and he was enough of a lawyer to make the most of it. Bradshaw, on the other hand, seems, to me at least, to have played his part not badly. Considering all things, I do not myself see that his behaviour to Charles was unnecessarily harsh. If you have made up your mind to cut off a man's head, and if you are aware that your position as a judge is a false one, you are bound to assert your authority without much regard to prisoners' feelings, or even good manners. I am not in a position to discuss what effect the essential illegality of the trial, from a formal point of view, produced on contemporary and subsequent opinion; but I think it may safely be said that the trial presents the most striking example to be found in English history of the view held in this country of the authority of the law. I have only to add that in this trial I have reproduced the original report exactly as I found it.

On Saturday, being the 20th day of January 1649, the Lord President of the High Court of Justice,[1]

[1] John Bradshaw (1602-1659) was the son of a Cheshire gentleman. Called to the bar in 1627, he practised at Congleton till about 1643, when he became judge of the Sheriff's Court in London, and was enjoying, according to Campbell, 'a considerable but obscure practice'; had, according to Clarendon, 'a good practice in his chamber, and [was] much

with near fourscore of the members of the said Court, having sixteen gentlemen with partizans, and a sword, and a mace, with their and other officers of the said Court, marching before them, came to the place ordered to be prepared for their sitting at the west-end of the great Hall at Westminster; where the Lord President, in a crimson velvet chair, fixed in the midst of the Court, placed himself, having a desk with a crimson-velvet cushion before him; the rest of the members placing themselves on each side of him upon several seats, or benches, prepared and hung with scarlet for that purpose; and the partizans dividing themselves on each side of the court before them.

The Court being thus sat, and Silence made, the great gate of the said Hall was set open, to the end that all persons without exception, desirous to see or hear, might come into it. Upon which the Hall was presently filled, and silence again ordered.

employed by the fractious'; and became, according to Milton, 'a profound lawyer, an eloquent advocate.' He defended Lilburne successfully in 1645. He was made President of the High Court for the purpose of this trial, after the position had been declined by Whitelock, Rolle, St. John, and Wilde. After this trial he presided at the trials of the Duke of Hamilton following on the Battle of Worcester; and Holland, Norwich, Capel, and Owen after the siege of Colchester. Later on he vigorously opposed Cromwell, and accepted a seat in Richard Cromwell's Council of State. He became a Commissioner of the Great Seal in 1659, and died in October of that year. His body was exhumed at the Restoration with those of Cromwell and others, hung at Tyburn, and buried under the gallows. According to a legend perpetuated by an inscription on a cannon, his body was taken to Annapolis and buried there. A panegyric was written on him by Milton.

This done, colonel Thomlinson, who had the charge of the Prisoner, was commanded to bring him to the Court; who within a quarter of an hour's space brought him, attended with about twenty officers with partizans, marching before him, there being other gentlemen, to whose care and custody he was likewise committed, marching in his rear.

Being thus brought up within the face of the Court, the Serjeant at Arms, with his mace, receives and conducts him strait to the bar, having a crimson-velvet chair set before him. After a stern looking upon the Court, and the people in the galleries on each side of him, he places himself, not at all moving his hat, or otherwise shewing the least respect to the court; but presently rises up again, and turns about, looking downwards upon the guards placed on the left side, and on the multitude of spectators on the right side of the said great Hall. After silence made among the people, the Act of Parliament for the trying of Charles Stuart, king of England, was read over by the Clerk of the Court, who sat on one side of a table covered with a rich Turkey-carpet, and placed at the feet of the said Lord President; upon which table was also laid the sword and mace.

After reading the said Act, the several names of the Commissioners were called over, every one who was present, being eighty, as aforesaid, rising up, and answering to his call.

Having again placed himself in his Chair, with his face towards the Court, silence being again ordered, the Lord President stood up, and said,

Lord President—Charles Stuart, king of England, the Commons of England assembled in Parliament being deeply sensible of the calamities that have been

brought upon this nation, which is fixed upon you as the principal author of it, have resolved to make inquisition for blood; and according to that debt and duty they owe to justice, to God, the kingdom, and themselves, and according to the fundamental power that rests in themselves, they have resolved to bring you to Trial and Judgment; and for that purpose have constituted this High Court of Justice, before which they are brought.

This said, Mr. Cook,[1] Solicitor for the Commonwealth standing within a bar on the right hand of the Prisoner, offered to speak; but the king having a staff in his hand, held it up, and laid it on the said Mr. Cook's shoulder two or three times, bidding him hold. Nevertheless, the Lord President ordering him to go on, he said,

Mr. Cook—My lord, I am commanded to charge Charles Stuart King of England, in the name of the Commons of England, with Treason and High Misdemeanors; I desire the said Charge may be read.

The said Charge being delivered to the Clerk of the Court, the Lord President ordered it should be read; but the king bid him hold. Nevertheless, being commanded by the Lord President to read it, the Clerk begun, and the Prisoner sat down again in his chair, looking sometimes on the High Court, sometimes up to the Galleries; and having risen again, and turned about to behold the guards and

[1] John Cook acted with Bradshaw as one of the counsel defending Lilburne in 1646. After the trial, of a scurrilous account of which he was probably the author, he was made Master of the hospital of St. Cross, and afterwards held

spectators, sat down, looking very sternly, and with a countenance not at all moved, till these words, viz. :—'Charles Stuart to be a Tyrant and Traitor,' etc. were read; at which he laughed, as he sat, in the face of the Court.

The Charge being read, the Lord President replied;

Lord President—Sir, You have now heard your Charge, containing such matter as appears in it; you find, that in the close of it, it is prayed to the Court, in the behalf of the commons of England, that you answer to your Charge. The Court expects your Answer.

King—I would know by what power I am called hither; I was not long ago in the Isle of Wight; how I came there, is a longer story than I think it fit at this present time for me to speak of; but there I entered into a Treaty with both houses of Parliament, with as much public faith as it is possible to be had of any people in the world. I treated there with a number of honorable lords and gentlemen, and treated honestly and uprightly; I cannot say but they did very nobly with me, we were upon the conclusion of the Treaty. Now I would know by what authority, I mean lawful; there are many unlawful authorities in the world, thieves and robbers by the highways; but I would know by what authority I was brought from thence, and carried from place to place, and I know not what; and when I know what lawful authority, I shall answer. Remember I am your king, your lawful king, and what sins you bring upon your heads, and the judgment of God upon this land; think well upon it, I say, think well upon it, before you go further from one sin to a greater; therefore let me know by what lawful

authority I am seated here, and I shall not be unwilling to answer. In the mean time, I shall not betray my trust; I have a trust committed to me by God, by old and lawful descent; I will not betray it, to answer to a new unlawful authority; therefore resolve me that and you shall hear more of me.

Lord President—If you had been pleased to have observed what was hinted to you by the Court, at your first coming hither, you would have known by what authority; which authority requires you, in the name of the people of England, of which you are elected king, to answer them.

King—No. Sir, I deny that.

Lord President — If you acknowledge not the authority of the Court, they must proceed.

King—I do tell them so; England was never an elective kingdom, but an hereditary kingdom, for near these thousand years; therefore let me know by what authority I am called hither. I do stand more for the Liberty of my people, than any here that come to be my pretended Judges; and therefore let me know by what lawful authority I am seated here, and I will answer it; otherwise I will not answer it.

Lord President—Sir, how really you have managed your trust, is known: your way of answer is to interrogate the Court, which beseems not you in this condition. You have been told of it twice or thrice.

King — Here is a gentleman, lieutenant-colonel Cobbet; ask him, if he did not bring me from the Isle of Wight by force. I do not come here as submitting to the Court: I will stand as much for the privilege of the house of commons, rightly understood, as any man here whatsoever. I see no house

of lords here that may constitute a parliament; and the king too should have been. Is this the bringing of the king to his parliament? Is this the bringing an end to the Treaty in the public faith of the world? Let me see a legal authority warranted by the Word of God, the Scriptures, or warranted by the Constitutions of the kingdom, and I will answer.

Lord President—Sir; You have propounded a question, and have been answered. Seeing you will not answer, the Court will consider how to proceed; in the mean time, those that brought you hither, are to take charge of you back again. The Court desires to know, whether this be all the Answer you will give or no.

King—Sir, I desire that you would give me, and all the world, satisfaction in this: let me tell you, it is not a slight thing you are about, I am sworn to keep the peace, by that duty I owe to God and my country, and I will do it to the last breath of my body; and therefore ye shall do well to satisfy first God, and then the country, by what authority you do it; if you do it by an usurped authority, you cannot answer. There is a God in Heaven, that will call you, and all that give you power, to account. Satisfy me in that, and I will answer; otherwise I betray my Trust, and the Liberties of the people: and therefore think of that, and then I shall be willing. For I do avow, that it is as great a sin to withstand lawful authority, as it is to submit to a tyrannical, or any other ways unlawful authority; and therefore satisfy me that, and you shall receive my answer.

Lord President—The Court expects you should give them a final Answer; their purpose is to adjourn to Monday next; if you do not satisfy yourself,

though we do tell you our authority, we are satisfied with our authority, and it is upon God's authority and the kingdom's; and that peace you speak of will be kept in the doing of justice, and that is our present work.

KING—For answer, let me tell you, you have shewn no lawful authority to satisfy any reasonable man.

LORD PRESIDENT—That is, in your apprehension; we are satisfied that are your Judges.

KING—It is not my apprehension, nor yours neither, that ought to decide it.

LORD PRESIDENT—The Court hath heard you, and you are to be disposed of as they have commanded.

The Court adjourns to the Painted Chamber, on Monday at ten of the clock in the forenoon, and thence hither.

It is to be observed that as the Charge was reading against the king, the head of his Staff fell off, which he wondered at; and seeing none to take it up, he stoops for it himself.

As the King went away, facing the Court, he said, 'I do not fear that' (meaning the Sword). The People in the Hall, as he went down the stairs, cried out, some, 'God save the King and most for 'Justice.'[1]

At the High Court of Justice sitting in Westminster Hall, Monday, January 22, 1649.

O Yes! made; Silence commanded; the Court called, and answered to their names. Silence commanded upon pain of imprisonment, and the Captain

[1] See *post*, p. 150.

of the Guard to apprehend all such as make disturbance. Upon the king's coming in, a shout was made. Command given by the Court to the Captain of the Guard, to fetch and take into his custody those who make any disturbance.

Mr. Solicitor—May it please your lordship, my Lord President; I did at the last court in the behalf of the Commons of England, exhibit and give in to this court a Charge of High Treason, and other High Crimes, against the prisoner at the bar whereof I do accuse him in the name of the People of England; and the Charge was read unto him, and his Answer required. My lord, He was not then pleased to give an Answer, but instead of answering, did there dispute the Authority of this high Court. My humble motion to this high Court in behalf of the kingdom of England is, That the prisoner may be directed to make a positive Answer, either by way of confession, or negation; which if he shall refuse to do, that the matter of the Charge may be taken *pro confesso*, and the Court may proceed according to justice.

Lord President—Sir, You may remember at the last Court you were told the occasion of your being brought hither, and you heard a Charge read against you, containing a Charge of High Treason and other high crimes against this realm of England: you heard likewise, that it was prayed in the behalf of the People, that you should give an Answer to that Charge, that thereupon such proceedings might be had, as should be agreeable to justice. You were then pleased to make some scruples concerning the authority of this Court, and knew not by what authority you were brought hither; you did divers times propound your questions, and were as often

answered. That it was by authority of the Commons of England assembled in parliament, that did think fit to call you to account for those high and capital Misdemeanours wherewith you were then charged. Since that the Court hath taken into consideration what you then said; they are fully satisfied with their own authority, and they hold it fit you should stand satisfied with it too; and they do require it, that you do give a positive and particular Answer to this Charge that is exhibited against you; they do expect you should either confess or deny it; if you deny, it is offered in the behalf of the kingdom to be made good against you; their authority they do avow to the whole world, that the whole kingdom are to rest satisfied in, and you are to rest satisfied with it. And therefore you are to lose no more time, but to give a positive Answer thereunto.

King—When I was here last, it is very true, I made that question; truly if it were only my own particular case, I would have satisfied myself with the protestation I made the last time I was here against the Legality of this Court, and that a king cannot be tried by any superior jurisdiction on earth; but it is not my case alone, it is the Freedom and the Liberty of the people of England; and do you pretend what you will, I stand more for their Liberties. For if power without law may make laws, may alter the fundamental laws of the kingdom, I do not know what subject he is in England, that can be sure of his life, or any thing that he calls his own: therefore when that I came here, I did expect particular reasons to know by what law, what authority you did proceed against me here. And therefore I am a little to seek what to say to you in this particular, because

the affirmative is to be proved, the negative often is very hard to do: but since I cannot persuade you to do it, I shall tell you my reasons as short as I can—My Reasons why in conscience and the duty I owe to God first, and my people next, for the preservation of their lives, liberties, and estates I conceive I cannot answer this, till I be satisfied of the legality of it. All proceedings against any man whatsoever——

Lord President—Sir, I must interrupt you, which I would not do, but that what you do is not agreeable to the proceedings of any court of justice: You are about to enter into argument, and dispute concerning the Authority of this Court, before whom you appear as a Prisoner, and are charged as an high Delinquent: if you take upon you to dispute the Authority of the Court, we may not do it, nor will any court give way unto it: you are to submit unto it, you are to give a punctual and direct Answer, whether you will answer your charge or no, and what your Answer is.

King—Sir, By your favour, I do not know the forms of law: I do know law and reason, though I am no lawyer professed; but I know as much law as any gentleman in England; and therefore (under favour) I do plead for the Liberties of the People of England more than you do: and therefore if I should impose a belief upon any man, without reasons given for it, it were unreasonable: but I must tell you, that that reason that I have, as thus informed, I cannot yield unto it.

Lord President—Sir, I must interrupt you, you may not be permitted; you speak of law and reason; it is fit there should be law and reason, and there is both against you. Sir, the Vote of the Commons of England assembled in parliament, it is the reason of

the kingdom, and they are these that have given to that law, according to which you should have ruled and reigned. Sir, you are not to dispute our Authority, you are told it again by the Court. Sir, it will be taken notice of, that you stand in contempt of the Court, and your contempt will be recorded accordingly.

KING—I do not know how a king can be a Delinquent; but by any law that ever I heard of, all men (Delinquents, or what you will), let me tell you, they may put in Demurrers against any proceeding as legal: and I do demand that, and demand to be heard with my Reasons: if you deny that, you deny reason.

LORD PRESIDENT—Sir, you have offered something to the Court: I shall speak something unto you, the Sense of the Court. Sir, neither you nor any man are permitted to dispute that point, you are concluded, you may not demur to the jurisdiction of the Court: if you do, I must let you know, that they over-rule your Demurrer; they sit here by the authority of the Commons of England, and all your predecessors and you are responsible to them.

KING—I deny that; shew me one precedent.

LORD PRESIDENT—Sir, you ought not to interrupt while the Court is speaking to you. This point is not to be debated by you, neither will the Court permit you to do it; if you offer it by way of Demurrer to the Jurisdiction of the Court, they have considered of their Jurisdiction, they do affirm their own Jurisdiction.

KING—I say, Sir, by your favour, that the Commons of England was never a Court of Judicature: I would know how they came to be so.

LORD PRESIDENT—Sir, you are not to be permitted to go on in that Speech and these discourses.

Then the clerk of the Court read as followeth :—

'Charles Stuart, king of England, You have been 'accused on behalf of the People of England of High 'Treasons, and other high Crimes; the Court have 'determined that you ought to answer the same.'

KING—I will answer the same so soon as I know by what Authority you do this.

LORD PRESIDENT—If this be all that you will say, then Gentlemen, you that brought the Prisoner hither, take charge of him back again.

KING—I do require that I may give in my Reasons why I do not answer, and give me time for that.

LORD PRESIDENT—Sir, it is not for Prisoners to require.

KING—Prisoners! Sir, I am not an ordinary prisoner.

LORD PRESIDENT—The Court hath considered of their jurisdiction, and they have already affirmed their jurisdiction; if you will not answer, we shall give order to record your default.

KING—You never heard my Reasons yet.

LORD PRESIDENT—Sir, your Reasons are not to be heard against the highest jurisdiction.

KING—Shew me that Jurisdiction where reason is not to be heard.

LORD PRESIDENT—Sir, we shew it you here. The Commons of England; and the next time you are brought, you will know more of the pleasure of the Court; and, it may be, their final determination.

KING—Shew me where ever the House of Commons was a Court of Judicature of that kind.

LORD PRESIDENT—Serjeant, take away the Prisoner.

KING—Well, Sir, remember that the king is not suffered to give in his Reasons for the Liberty and Freedom of all his Subjects.

LORD PRESIDENT—Sir, you are not to have Liberty to use this language; How great a friend you have been to the Laws and Liberties of the people, let all England and the world judge.

KING—Sir, under favour, it was the Liberty, Freedom, and Laws of the subject, that ever I took—defended myself with arms; I never took up arms against the people, but for the laws.

LORD PRESIDENT—The command of the Court must be obeyed; no Answer will be given to the Charge.

KING—Well, Sir!

And so he was guarded forth to sir Robert Cotton's house.

Then the Court adjourned to the Painted Chamber on Tuesday at 12 o'clock, and from thence they intend to adjourn to Westminster Hall; at which time all persons concerned are to give their attendance.

At the High Court of Justice sitting in Westminster Hall, Tuesday, January 23, 1649.

O Yes made, Silence commanded, the Court called, 73 persons present. The King comes in with his guard, looks with an austere countenance upon the Court, and sits down. The second O Yes made, and Silence commanded.

MR. COOK, SOLICITOR-GENERAL—May it please your lordship, my lord President; this is now the third time, that by the great grace and favour of this High Court, the Prisoner hath been brought to the bar before any issue joined in the cause. My lord, I did at the first court exhibit a Charge against him, containing the highest Treasons that ever was wrought

upon the theatre of England; That a king of England trusted to keep the law, that had taken an oath so to do, that had tribute paid him for that end, should be guilty of a wicked Design to subvert and destroy our Laws, and introduce an Arbitrary and Tyrannical Government, in defiance of the Parliament and their Authority, set up his standard for War against his Parliament and People: And I did humbly pray, in the behalf of the people of England, that he might speedily be required to make an Answer to the Charge. But my lord, instead of making any Answer, he did then dispute the Authority of this High Court. Your lordship was pleased to give him a further day to consider, and to put in his Answer; which day being Yesterday, I did humbly move, that he might be required to give a direct and positive Answer, either by denying or confession of it; But, my lord, he was then pleased for to demur to the Jurisdiction of the Court; which the court did then over-rule, and commanded him to give a direct and positive Answer. My lord, besides this great delay of justice, I shall now humbly move your lordship for speedy Judgment against him. My lord, I might press your lordship upon the whole, that according to the known rules of the law of the land, That if a Prisoner shall stand as contumacious in contempt, and shall not put in an issuable plea, Guilty or not Guilty of the Charge given against him, whereby he may come to a fair trial; that, as by an implicit confession, it may be taken *pro confesso*, as it hath been done to those who have deserved more favour than the Prisoner at the bar has done. But, besides, my lord, I shall humbly press your lordship upon the whole fact. The house of commons, the supreme

Authority and Jurisdiction of the kingdom, they have declared, That it is notorious, that the matter of the Charge is true, as it is in truth, my lord, as clear as crystal, and as the sun that shines at noon-day: which if your lordship and the Court be not satisfied in, I have notwithstanding, on the people of England's behalf, several Witnesses to produce. And therefore I do humbly pray, and yet I must confess it is not so much I, as the innocent blood that hath been shed, the cry whereof is very great for justice and judgment; and therefore I do humbly pray, that speedy Judgment be pronounced against the Prisoner at the bar.

Lord President—Sir, you have heard what is moved by the Counsel on the behalf of the kingdom against you. Sir, you may well remember, and if you do not, the Court cannot forget, what dilatory dealings the Court hath found at your hands. You were pleased to propound some Questions, you have had our Resolutions upon them. You were told, over and over again, That the Court did affirm their own jurisdiction; that it was not for you, nor any other man, to dispute the jurisdiction of the supreme and highest Authority of England, from which there is no appeal, and touching which there must be no dispute; yet you did persist in such carriage, as you gave no manner of obedience, nor did you acknowledge any authority in them, nor the High Court that constituted this Court of Justice. Sir, I must let you know from the Court, that they are very sensible of these delays of your's, and that they ought not, being thus authorised by the supreme Court of England, to be thus trifled withal; and that they might in justice, if they pleased, and according to the rules of justice, take advantage of these delays and proceed to pro-

nounce judgment against you; yet nevertheless they are pleased to give direction, and on their behalfs I do require you, that you make a positive Answer unto this Charge that is against you, Sir, in plain terms, for Justice knows no respect of persons; you are to give your positive and final Answer in plain English, whether you be Guilty or Not Guilty of these Treasons laid to your charge.

The King, after a little pause, said,

KING—When I was here yesterday, I did desire to speak for the Liberties of the people of England; I was interrupted; I desire to know yet whether I may speak freely or not.

LORD PRESIDENT—Sir, you have had the Resolution of the Court upon the like question the last day, and you were told that having such a Charge of so high a nature against you, and your work was, that you ought to acknowledge the jurisdiction of the Court, and to answer to your Charge. Sir, if you answer to your Charge, which the Court gives you leave now to do, though they might have taken the advantage of your contempt; yet if you be able to answer to your Charge, when you have once answered, you shall be heard at large, make the best defence you can. But, Sir, I must let you know from the Court, as their commands, that you are not to be permitted to issue out into any other discourses, till such time as you have given a positive Answer concerning the matter that is charged upon you.

KING—For the Charge, I value it not a rush; it is the Liberty of the People of England that I stand for. For me to acknowledge a new Court that I never heard of before, I that am your King, that should be an example to all the people of England for to uphold

justice, to maintain the old laws: indeed I do not know how to do it. You spoke very well the first day that I came here (on Saturday) of the obligations that I had laid upon me by God, to the maintenance of the Liberties of my people; the same obligation you spake of, I do acknowledge to God that I owe to him, and to my people, to defend as much as in me lies the ancient laws of the kingdom: therefore, until that I may know that this is not against the fundamental Laws of the kingdom, by your favour I can put in no particular Charge.[1] If you will give me time, I will shew you my Reasons why I cannot do it, and this——

Here, being interrupted, he said,

By your favor, you ought not to interrupt me: How I came here, I know not; there's no law for it to make your king your prisoner. I was in a Treaty upon the public faith of the kingdom, that was the known[2] . . . two Houses of Parliament that was the representative of the kingdom; and when that I had almost made an end of the Treaty, then I was hurried away, and brought hither: and therefore——

Here the Lord President said, Sir, you must know the pleasure of the Court.

KING—By your favour, sir.

LORD PRESIDENT—Nay, sir, by your favour, you

[1] 'This is as the king expressed it; but I suppose he meant Answer.'—Former Edition.

[2] Clement Walker says: 'Whether these breaches and interruptions were made by Bradshaw, or are omissions and expunctions of some material parts of the king's speech, which this licensed penman durst not set down, I know not. I hear much of the king's argument is omitted, and much depraved, none but licensed men being suffered to take notes.'

may not be permitted to fall into those discourses; you appear as a Delinquent, you have not acknowledged the authority of the Court, the Court craves it not of you; but once more they command you to give your positive Answer.—Clerk, do your duty.

KING—Duty, Sir!

The Clerk reads.

'Charles Stuart, king of England, you are accused 'in behalf of the commons of England of divers 'Crimes and Treasons, which Charge hath been read 'unto you: the Court now requires you to give your 'positive and final Answer, by way of confession or 'denial of the Charge.'

KING—Sir, I say again to you, so that I might give satisfaction to the people of England of the clearness of my proceeding, not by way of Answer, not in this way, but to satisfy them that I have done nothing against that trust that has been committed to me, I would do it; but to acknowledge a new Court, against their Privileges, to alter the fundamental laws of the kingdom—sir, you must excuse me.

LORD PRESIDENT—Sir, this is the third time that you have publicly disowned this Court, and put an affront upon it. How far you have preserved the privileges of the people, your actions have spoke it; but truly, Sir, men's intentions ought to be known by their actions; you have written your meaning in bloody characters throughout the whole kingdom. But, Sir, you understand the pleasure of the Court.—Clerk, Record the Default.—And, Gentlemen, you that took charge of the Prisoner, take him back again.

KING—I will only say this one word more to you: If it were only my own particular, I would not say any more, nor interrupt you.

Lord President—Sir, you have heard the pleasure of the Court, and you are (notwithstanding you will not understand it) to find that you are before a court of justice.

Then the King went forth with his guard, and proclamation was made, That all persons which had then appeared, and had further to do at the Court, might depart into the Painted Chamber; to which place the Court did forthwith adjourn, and intended to meet in Westminster Hall by ten of the clock next morning.

Cryer—God bless the kingdom of England!

Wednesday, January 24th, 1649.

This day it was expected the High Court of Justice would have met in Westminster Hall, about ten of the clock; but at the time appointed, one of the Ushers, by direction of the Court (then sitting in the Painted Chamber) gave notice to the people there assembled, That in regard the Court was then upon the Examination of Witnesses, in relation to present affairs, in the Painted Chamber, they could not sit there; but all persons appointed to be there, were to appear upon further summons.

The Proceedings of the High Court of Justice sitting in Westminster Hall, on Saturday the 27th of January 1649.

O Yes made: Silence commanded; the court called; Serjeant Bradshaw Lord President (in a scarlet robe), with sixty-eight other members of the court.

As the King comes in, a Cry made in the Hall for Execution! Justice! Execution![1]

KING—I shall desire a word to be heard a little, and I hope I shall give no occasion of interruption.

LORD PRESIDENT—You may answer in your time, hear the Court first.

KING—If it please you, Sir, I desire to be heard, and I shall not give any occasion of interruption, and it is only in a word: a sudden Judgment.

LORD PRESIDENT—Sir, you shall be heard in due time, but you are to hear the Court first.

KING—Sir, I desire—it will be in order to what I believe the Court will say; and therefore, Sir, an hasty Judgment is not so soon recalled.

LORD PRESIDENT—Sir, you shall be heard before the Judgment be given, and in the mean time you may forbear.

KING—Well, Sir, shall I be heard before the Judgment be given?

LORD PRESIDENT—Gentlemen, it is well known to all, or most of you here present, that the Prisoner at the Bar hath been several times convened and brought before the Court to make answer to a Charge of Treason, and other high Crimes exhibited against him in the name of the people of England [Here a malignant lady (Lady Fairfax) interrupted the Court, saying 'Not half the People'; but she was soon silenced. See the Trial of Daniel Axtell, Oct. 15, 1660]; to which Charge being required to answer he hath been so far from obeying the commands of the Court by submitting to their justice, as he began to take upon him to offer reasoning and debate unto the

[1] See p. 150.

Authority of the Court, and of the highest court that constituted them to try and judge him: but being over-ruled in that, and required to make his Answer, he was still pleased to continue contumacious, and to refuse to submit or answer. Hereupon the Court, that they may not be wanting to themselves, to the trust reposed in them, nor that any man's wilfulness prevent justice, they have thought fit to take the matter into their consideration, they have considered of the Charge, they have considered of the Contumacy, and of that Confession, which in law doth arise upon that contumacy; they have likewise considered of the notoriety of the fact charged upon this Prisoner, and upon the whole matter they are resolved, and have agreed upon a Sentence to be now pronounced against this Prisoner; but in respect he doth desire to be heard, before the Sentence be read and pronounced, the Court hath resolved that they will hear him. Yet, Sir, thus much I must tell you beforehand, which you have been minded of at other courts, that if that you have to say be to offer any debate concerning jurisdiction, you are not to be heard in it; you have offered it formerly, and you have indeed struck at the root, that is, the power and supreme authority of the Commons of England, which this Court will not admit a debate of; and which indeed is an irrational thing in them to do, being a court that acts upon authority derived from them, that they should presume to judge upon their superior, from whom there is no appeal. But, sir, if you have anything to say in defence of yourself concerning the matter charged, the Court hath given me in command to let you know they will hear you.

KING—Since that I see that you will not hear any-

thing of debate concerning that which I confess I thought most material for the Peace of the Kingdom, and for the Liberty of the Subject, I shall wave it; I shall speak nothing to it, but only I must tell you, that this many a day all things have been taken away from me, but that, that I call more dear to me than my life, which is my conscience and my honour: and if I had respect to my life more than the Peace of the Kingdom, the Liberty of the Subject, certainly I should have made a particular Defence for myself; for by that at leastwise I might have delayed an ugly Sentence, which I believe will pass upon me. Therefore certainly, Sir, as a man that hath some understanding, some knowledge of the world, if that my true zeal to my country had not overborne the care that I have of my own preservation, I should have gone another way to work than that I have done. Now, Sir, I conceive, that an hasty Sentence once passed, may sooner be repented than recalled; and truly, the self-same desire that I have for the Peace of the Kingdom, and the Liberty of the subject more than my own particular, does make me now at last desire, that having something for to say that concerns both, I desire before Sentence be given, that I may be heard in the Painted Chamber before the Lords and Commons. This delay cannot be prejudicial to you, whatsoever I say; if that I say no reason, those that hear me must be judges: I cannot be judge of that, which I have: if it be reason, and really for the welfare of the kingdom, and the liberty of the subject, I am sure on't, very well it is worth the hearing; therefore I do conjure you, as you love that which you pretend, I hope it is real, the Liberty of the Subject, the Peace of the kingdom, that you will

grant me the hearing, before any Sentence be past. I only desire this, that you will take this into your consideration, it may be you have not heard of it before-hand; if you will, I 'll retire, and you may think of it; but if I cannot get this liberty I do here protest, that so fair shews of Liberty and Peace are pure shews, and not otherwise, since you will not hear your king.

Lord President—Sir, you have now spoken.

King—Yes, Sir.

Lord President—And this that you have said is a further declining of the Jurisdiction of this Court, which was the thing wherein you were limited before.

King—Pray excuse me, Sir, for my interruption, because you mistake me; it is not a declining of it, you do judge me before you hear me speak; I say it will not, I do not decline it, though I cannot acknowledge the Jurisdiction of the Court; yet, Sir, in this give me leave to say, I would do it, though I do not by this acknowledge it, I do protest it is not the declining of it, since I say, if that I do say any thing, but that which is for the Peace of the Kingdom, and the Liberty of the Subject, then the shame is mine. Now I desire that you will take this into your consideration; if you will, I 'll withdraw.

Lord President—Sir, this is not altogether new that you have moved unto us, not altogether new to us, though it is the first time in person you have offered it to the Court. Sir, you say you do not decline the Jurisdiction of the Court.

King—Not in this that I have said.

Lord President—I understand you well, Sir; but nevertheless, that which you have offered seems to be contrary to that saying of yours; for the Court are

ready to give a Sentence; It is not as you say, That they will not hear your king; for they have been ready to hear you, they have patiently waited your pleasure for three Courts together, to hear what you would say to the People's Charge against you, to which you have not vouchsafed to give any Answer at all. Sir, this tends to a further delay; truly, Sir, such delays as these, neither may the kingdom nor justice well bear; you have had three several days to have offered in this kind what you would have pleased. This Court is founded upon that Authority of the Commons of England in whom rests the supreme jurisdiction; that which you now tender is to have another jurisdiction, and a co-ordinate jurisdiction. I know very well you express yourself, Sir, that notwithstanding that you would offer to the Lords and Commons in the Painted Chamber, yet nevertheless you would proceed on here, I did hear you say so. But, Sir, that you would offer there, whatever it is, it must needs be in delay of the Justice here; so as if this Court be resolved, and prepared for the Sentence, this that you offer they are not bound in justice to grant; But, Sir, according to what you seem to desire, and because you shall know the further pleasure of the Court upon that which you have moved, the Court will withdraw for a time.

KING—Shall I withdraw?

LORD PRESIDENT—Sir, you shall know the pleasure of the Court presently.

The Court withdraws for half an hour into the Court of Wards.

SERJEANT-AT-ARMS—The Court gives command,

that the Prisoner be withdrawn; and they give order for his return again.

The Court withdraws for half an hour and returns.

Lord President—Serjeant-at-Arms, send for your Prisoner.

Sir, you were pleased to make a motion here to the Court to offer a desire of yours, touching the propounding of somewhat to the Lords in the Painted Chamber, for the peace of the kingdom; Sir, you did, in effect, receive an Answer before the Court adjourned; truly, Sir, their withdrawing, and adjournment was *pro forma tantum*: for it did not seem to them that there was any difficulty in the thing; they have considered of what you have moved, and have considered of their own Authority, which is founded, as hath been often said, upon the supreme Authority of the Commons of England assembled in parliament: the Court acts according to their Commission. Sir, the return I have to you from the Court, is this: That they have been too much delayed by you already, and this that you now offer hath occasioned some little further delay; and they are Judges appointed by the highest Judges; and Judges are no more to delay, than they are to deny Justice: they are good words in the great old Charter of England; *Nulli negabimus, nulli vendemus, nulli differemus Justitiam.* There must be no delay; but the truth is, Sir, and so every man here observes it, that you have much delayed them in your Contempt and Default, for which they might long since have proceeded to Judgment against you; and notwithstanding what you have offered, they are resolved to proceed

to Punishment, and to Judgment, and that is their unanimous Resolution.

King—Sir, I know it is in vain for me to dispute, I am no sceptic for to deny the Power that you have; I know that you have Power enough: Sir, I confess, I think it would have been for the kingdom's peace, if you would have taken the pains for to have shewn the lawfulness of your Power; for this Delay that I have desired, I confess it is a delay, but it is a delay very important for the Peace of the Kingdom; for it is not my person that I look on alone, it is the kingdom's welfare, and the kingdom's peace; it is an old Sentence, That we should think long, before we resolve of great matters. Therefore, Sir, I do say again, that I do put at your doors all the inconveniency of an hasty Sentence. I confess I have been here now, I think, this week; this day eight days was the day I came here first, but a little Delay of a day or two further may give Peace; whereas an hasty Judgment may bring on that trouble and perpetual inconveniency to the kingdom, that the child that is unborn may repent it; and therefore again, out of the duty I owe to God, and to my country, I do desire that I may be heard by the Lords and Commons in the Painted Chamber, or any other chamber that you will appoint me.

Lord President—Sir, you have been already answered to what you even now moved, being the same you moved before, since the Resolution and the Judgment of the Court in it; and the Court now requires to know whether you have any more to say for yourself than you have said, before they proceed to Sentence?

King—I say this, Sir, That if you will hear me, if you will give but this Delay, I doubt not but I shall

give some satisfaction to you all here, and to my People after that; and therefore I do require you, as you will answer it at the dreadful Day of Judgment, that you will consider it once again.

Lord President—Sir, I have received direction from the Court.

King—Well, Sir.

Lord President—If this must be re-enforced, or any thing of this nature, your Answer must be the the same; and they will proceed to Sentence, if you have nothing more to say.

King—Sir, I have nothing more to say, but I shall desire, that this may be entered what I have said.

Lord President—The Court then, Sir, hath something else to say to you; which, although I know it will be very unacceptable, yet notwithstanding they are willing, and are resolved to discharge their duty. Sir, You speak very well of a precious thing, which you call Peace; and it had been much to be wished that God had put it into your heart, that you had as effectually and really endeavoured and studied the Peace of the kingdom, as now in words you seem to pretend; but, as you were told the other day, actions must expound intentions; yet actions have been clean contrary. And truly, Sir, it doth appear plainly enough to them, that you have gone upon very erroneous principles: The kingdom hath felt it to their smart; and it will be no case to you to think of it; for, Sir, you have held yourself, and let fall such language, as if you had been no way subject to the Law, or that the law had not been your superior. Sir, the Court is very sensible of it, and I hope so are all the understanding people of England, that the law is your superior; that you ought to have

ruled according to the law; you ought to have so. Sir, I know very well your pretence hath been that you have done so; but, Sir, the difference hath been who shall be the expositors of this law: Sir, whether you and your party, out of courts of justice, shall take upon them to expound law, or the courts of justice, who are the expounders? Nay, the Sovereign and the High Court of Justice, the Parliament of England, that are not only the highest expounders, but the sole makers of the law? Sir, for you to set yourself with your single judgment, and those that adhere unto you, to set yourself against the highest Court of Justice, that is not law. Sir, as the Law is your Superior, so truly, Sir, there is something that is superior to the Law, and that is indeed the Parent or Author of the Law, and that is the people of England: for, Sir, as they are those that at the first (as other countries have done) did chuse to themselves this form of government even for Justice sake, that justice might be administered, that peace might be preserved; so, Sir, they gave laws to their governors, according to which they should govern; and if those laws should have proved inconvenient or prejudicial to the public, they had a power in them, and reserved to themselves, to alter as they shall see cause. Sir, it is very true what some of your side have said, '*Rex non habet parem in regno*,' say they: This Court will say the same, while King, that you have not your peer in some sense, for you are *major singulis*; but they will aver again that you are *minor universis*. And the same Author tells you that, '*non debet esse major eo in regno suo in exhibitione juris, minimus autem esse debet in judicio suscipiendo*' [Bract., *De Leg.*, lib. i. c. viii.]

This we know to be law, *Rex habet superiorem, Deum et legem, etiam et curiam*; so says the same author. And truly, Sir, he makes bold to go a little further, *Debent ei ponere frœnum*: they ought to bridle him. And, Sir, we know very well the stories of old: those wars that were called the Barons' War, when the nobility of the land did stand out for the Liberty and Property of the Subject, and would not suffer the kings, that did invade, to play the tyrants freer, but called them to account for it; we know that truth, that they did *frœnum ponere*. But, sir, if they do forbear to do their duty now, and are not so mindful of their own honour and the kingdom's good as the Barons of England of old were, certainly the Commons of England will not be unmindful of what is for their preservation, and for their safety; *Justitiæ fruendi causa reges constituti sunt*. This we learn: The end of having kings, or any other governors, it is for the enjoying of justice; that is the end. Now, Sir, if so be the king will go contrary to that end, or any other governor will go contrary to the end of his government; Sir, he must understand that he is but an officer in trust, and he ought to discharge that trust; and they are to take order for the animadversion and punishment of such an offending governor.

This is not law of yesterday, Sir (since the time of the division betwixt you and your people), but it is law of old. And we know very well the Authors and the Authorities that do tell us what the law was in that point upon the Election of Kings upon the Oath that they took unto their people: And if they did not observe it, there were those things called Parliaments; the Parliaments were they that were to adjudge (the very Words of the Author) the plaints

and wrongs done of the king and the queen, or their children; such wrongs especially, when the people could have no where else any Remedy. Sir, that hath been the people of England's case: they could not have their Remedy elsewhere but in parliament.

Sir, Parliaments were ordained for that purpose, to redress the Grievances of the people; that was their main end. And truly, Sir, if so be that the kings of England had been rightly mindful of themselves, they were never more in majesty and state than in the Parliament: But how forgetful some have been, Stories have told us, we have a miserable, a lamentable, a sad experience of it. Sir, by the old laws of England, I speak these things the rather to you, because you were pleased to let fall the other day, You thought you had as much knowledge in the Law as most gentlemen in England: it is very well, Sir. And truly, Sir, it is very fit for the gentlemen of England to understand that Law under which they must live, and by which they must be governed. And then, Sir, the Scripture says, 'They that know their master's will and do it not' what follows? The Law is your master, the acts of parliament.

The Parliaments were to be kept antiently, we find in our old Author, twice in the year, that the Subject upon any occasion might have a ready Remedy and Redress for his Grievance. Afterwards, by several acts of parliament in the days of your predecessor Edward the third, they should have been once a year. Sir, what the Intermission of parliaments hath been in your time, it is very well known, and the sad consequences of it; and what in the interim instead of these Parliaments hath

been by you by an high and arbitrary hand introduced upon the People, that likewise hath been too well known and felt. But when God by his Providence had so far brought it about, that you could no longer decline the calling of a Parliament, Sir, yet it will appear what your ends were against the antient and your native kingdom of Scotland: the Parliament of England not serving your ends against them, you were pleased to dissolve it. Another great necessity occasioned the calling of this parliament; and what your Designs, and Plots, and Endeavours all along have been, for the crushing and confounding of this Parliament, hath been very notorious to the whole kingdom. And truly, Sir, in that you did strike at all; that had been a sure way to have brought about That that this Charge lays upon you, your intention to subvert the Fundamental Laws of the Land; for the great bulwark of the Liberties of the People is the Parliament of England; and to subvert and root up that, which your aim hath been to do, certainly at one blow you had confounded the Liberties and the Property of England.

Truly, Sir, it makes me to call to mind; I cannot forbear to express it; for, Sir, we must deal plainly with you, according to the merits of your cause; so is our Commission; it makes me to call to mind (these proceedings of yours) That that we read of a great Roman Emperor, by the way let us call him a great Roman tyrant, Caligula, that wished that the people of Rome had had but one neck, that at one blow he might cut it off. And your proceedings have been somewhat like to this; for the body of the people of England hath been (and where else) represented but in the Parliament; and could you but have con-

founded that, you had at one blow cut off the neck of England. But God hath reserved better things for us, and hath pleased for to confound your designs, and to break your forces, and to bring your person into custody, that you might be responsible to justice.

Sir, we know very well that it is a question much on your side press'd, By what Precedent we shall proceed? Truly, Sir, for Precedents, I shall not upon these occasions institute any long discourse; but it is no new thing to cite precedents almost of all nations, where the people (where the power hath been in their hands) have made bold to call their Kings to account; and where the change of government hath been upon occasion of the Tyranny and Misgovernment of those that have been placed over them, I will not spend time to mention either France, or Spain, or the Empire, or other countries; volumes may be written of it. But truly, Sir, that of the kingdom of Arragon, I shall think some of us have thought upon it, where they have the justice of Arragon, that is, a man, *tanquam in medio positus*, betwixt the King of Spain and the people of the country; that if wrong be done by the King, he that is king of Arragon, the justice, hath power to reform the wrong; and he is acknowledged to be the king's superior, and is the grand preserver of their privileges, and hath prosecuted kings upon their miscarriages.

Sir, what the Tribunes of Rome were heretofore, and what the Ephori were to the Lacedemonian State, we know that is the Parliament of England to the English state; and though Rome seemed to lose its liberty when once the Emperors were; yet you shall

nd some famous acts of justice even done by the enate of Rome; that great Tyrant of his time, Nero, ondemned and judged by the Senate. But truly, ir, to you I should not need to mention these foreign xamples and stories: If you look but over Tweed, e find enough in your native kingdom of Scotland. f we look to your first King Fergus, that your tories make mention of, he was an elective king; e died, and left two sons, both in their minority; ne kingdom made choice of their uncle, his brother, govern in the minority. Afterwards the elder rother, giving small hope to the people that he ould rule or govern well, seeking to supplant that ood uncle of his that governed them justly, they et the elder aside, and took to the younger. Sir, I should come to what your Stories make mention f, you know very well you are the hundred and inth king of Scotland; for not to mention so many ings as that kingdom, according to their power and rivileges, have made bold to deal withal, some to anish, and some to imprison, and some to put to eath, it would be too long: and as one of your own uthors says, it would be too long to recite the mani- ld examples that your own stories make mention of. *eges*, etc. (say they) we do create: we created kings first: *Leges*, etc., we imposed laws upon them. And they are chosen by the suffrages of the People at e first, so upon just occasion, by the same suffrages ey may be taken down again. And we will be bold say, that no kingdom hath yielded more plentiful xperience than that your native kingdom of Scot- nd hath done concerning the Deposition and the unishment of their offending and transgressing ngs.

It is not far to go for an example: near you—Your grandmother set aside, and your Father, an infant, crowned. And the State did it here in England; here hath not been a want of some examples. They have made bold (the Parliament and the People of England) to call their Kings to account; there are frequent examples of it in the Saxons' time, the time before the Conquest. Since the Conquest there want not some Precedents neither; King Edward the Second, King Richard the Second, were dealt with so by the Parliament, as they were deposed and deprived. And truly, Sir, whoever shall look into their Stories, they shall not find the Articles that are charged upon them to come near to that height and capitalness of Crimes that are laid to your Charge; nothing near.

Sir, you were pleased to say, the other day, wherein they dissent; and I did not contradict it. But take all together, Sir; If you were as the Charge speaks, and no otherwise, admitted king of England; but for that you were pleased then to alledge, how that for almost a thousand years these things have been, Stories will tell you, if you go no higher than the time of the Conquest; if you do come down since the Conquest, you are the twenty-fourth king from William called the Conqueror, you shall find one half of them to come merely from the state, and not merely upon the point of descent. It were easy to be instanced to you; but time must not be lost that way. And truly, Sir, what a grave and learned Judge said in his time, and well known to you, and is since printed for posterity, That although there was such a thing as a descent many times, yet the kings of England ever held the greatest assurance of their Titles when it was declared by Parliament. And, Sir,

your Oath, the manner of your Coronation, doth shew plainly, that the kings of England, although it is true, by the law the next person in blood is designed: yet if there were just cause to refuse him, the people of England might do it. For there is a Contract and a bargain made between the King and his people, and your Oath is taken; and certainly, Sir, the bond is reciprocal; for as you are the Liege Lord, so they Liege Subjects. And we know very well, that hath been so much spoken of, *Ligeantia est duplex*. This we know, now, the one tie, the one bond, is the Bond of Protection that is due from the sovereign; the other is the Bond of Subjection that is due from the Subject. Sir, if this bond be once broken, farewell sovereignty! *Subjectio trahit*, etc.

These things may not be denied, Sir; I speak it rather, and I pray God it may work upon your heart, that you may be sensible of your Miscarriages. For whether you have been, as by your office you ought to be, a Protector of England, or the Destroyer of England, let all England judge, or all the world, that hath look'd upon it. Sir, though you have it by inheritance in the way that is spoken of, yet it must not be denied that your office was an office of trust, and indeed an office of the highest trust lodged in any single person; For as you were the Grand Administrator of Justice, and others were, as your delegates, to see it done throughout your realms; if your greatest office were to do Justice, and preserve your People from wrong, and instead of doing that, you will be the great Wrong-doer yourself; if instead of being a Conservator of the Peace, you will be the grand Disturber of the Peace; surely this is contrary to your office, contrary to your trust. Now,

Sir, if it be an office of inheritance, as you speak of, your Title by Descent, let all men know that great offices are seizable and forfeitable, as if you had it but for a year, and for your life. Therefore, Sir, it will concern you to take into your serious consideration your great Miscarriages in this kind. Truly, Sir, I shall not particularize the many Miscarriages of your reign whatsoever, they are famously known: It had been happy for the kingdom, and happy for you too, if it had not been so much known, and so much felt, as the Story of your Miscarriages must needs be, and hath been already.

Sir, That which we are now upon, by the command of the highest Court, hath been and is to try and judge you for these great offences of your's. Sir, the Charge hath called you Tyrant, a Traitor, a Murderer, and a Public Enemy to the Commonwealth of England. Sir, it had been well if that any of all these terms might rightly and justly have been spared, if any one of them at all.

KING—Ha!

LORD PRESIDENT—Truly, Sir, We have been told *'Rex est dum bene regit, Tyrannus qui populum opprimit'*: And if so be that be the definition of a Tyrant, then see how you come short of it in your actions, whether the highest Tyrant, by that way of arbitrary government, and that you have sought for to introduce, and that you have sought to put, you were putting upon the people? Whether that was not as high an Act of Tyranny as any of your predecessors were guilty of, nay, many degrees beyond it?

Sir, the term Traitor cannot be spared. We shall easily agree it must denote and suppose a Breach of Trust; and it must suppose it to be done to a superior.

And therefore, Sir, as the people of England might have incurred that respecting you, if they had been truly guilty of it, as to the definition of law; so on the other side, when you did break your trust to the kingdom, you did break your trust to your superior; For the kingdom is that for which you were trusted. And therefore, sir, for this breach of Trust when you are called to account, you are called to account by your superiors. '*Minimus ad majorem in judicium vocat.*' And, Sir, the People of England cannot be so far wanting to themselves, God having dealt so miraculously and gloriously for them: but that having power in their hands, and their great enemy, they must proceed to do justice to themselves and to you: For, Sir, the Court could heartily desire, that you would lay your hand upon your heart, and consider what you have done amiss, that you would endeavour to make your peace with God. Truly, Sir, these are your High-Crimes, Tyranny and Treason.

There is a third thing too, if those had not been, and that is Murder, which is laid to your charge. All the bloody Murders, which have been committed since this time that the division was betwixt you and your people, must be laid to your charge, which have been acted or committed in these late wars. Sir, it is an heinous and crying sin: And truly, Sir, if any man will ask us what Punishment is due to a Murderer, let God's Law, let man's law speak. Sir, I will presume that you are so well read in Scripture, as to know what God himself hath said concerning the shedding of man's blood: Gen. ix., Numb. xxxv. will tell you what the punishment is: And which this Court, in behalf of the whole kingdom, are sensible of, of that innocent blood that has been shed,

whereby indeed the land stands still defiled with that blood; and, as the text hath it, it can no way be cleansed but with the shedding of the Blood of him that shed this blood. Sir, we know no dispensation from this blood in that Commandment 'Thou shalt do no Murder': We do not know but that it extends to kings as well as to the meanest peasants, the meanest of the people: the command is universal. Sir, God's law forbids it; Man's law forbids it: Nor do we know that there is any manner of exception, not even in man's laws, for the punishment of murder in you. It is true, that in the case of kings every private hand was not to put forth itself to this work for their reformation and punishment; But, Sir, the people represented having power in their hands, had there been but one wilful act of murder by you committed, had power to have convened you, and to have punished you for it.

But then, Sir, the weight that lies upon you in all those respects that have been spoken, by reason of your Tyranny, Treason, Breach of Trust, and the Murders that have been committed; surely, Sir, it must drive you into a sad consideration concerning your eternal condition. As I said at first, I know it cannot be pleasing to you to hear any such things as these are mentioned unto you from this Court, for so we do call ourselves, and justify ourselves to be a Court, and a high Court of Justice, authorized by the highest and solemnest court of the kingdom, as we have often said; And although you do not yet endeavour what you may to discourt us, yet we do take knowledge of ourselves to be such a Court as can administer Justice to you: and we are bound, Sir, in duty to do it. Sir, all I shall say before the reading

of your Sentence, it is but this: The Court does heartily desire that you will seriously think of those evils that you stand guilty of. Sir, you said well to us the other day, you wished us to have God before our eyes. Truly Sir, I hope all of us have so: That God, who we know is a King of Kings, and Lord of Lords; that God with whom there is no respect of Persons; that God, who is the Avenger of innocent Blood; We have that God before us; that God, who does bestow a curse upon them that with-hold their hands from shedding of blood, which is in the case of guilty malefactors, and that do deserve death: That God we have before our eyes. And were it not that the conscience of our duty hath called us unto this place, and this imployment, Sir, you should have had no appearance of a Court here. But, Sir, we must prefer the discharge of our duty unto God, and unto the kingdom, before any other respect whatsoever. And although at this time many of us, if not all of us, are severely threatened by some of your party, what they intend to do, Sir, we do here declare, That we shall not decline or forbear the doing of our duty in the administration of Justice, even to you, according to the merit of your Offence although God should permit those men to effect all that bloody design in hand against us. Sir, we will say, and we will declare it, as those Children in the Fiery Furnace, that would not worship the golden image, that Nebuchadnezzar had set up, 'That their God was able to deliver them from that danger that they were near unto'; But yet if he would not do it, yet notwithstanding that they would not fall down and worship the Image. We shall thus apply it; That though we should not be delivered from those bloody hands and hearts that

conspire the overthrow of the kingdom in general, of us in particular, for acting in this great Work of Justice, though we should perish in the Work, yet by God's grace, and by God's strength, we will go on with it. And this is all our resolutions, Sir, I say for yourself, we do heartily wish and desire that God would be pleased to give you a sense of your sins, that you would see wherein you have done amiss, that you may cry unto him, that God would deliver you from Blood-guiltiness. A good king was once guilty of that particular thing, and was clear otherwise, saving in the matter of Uriah. Truly, Sir, the Story tells us that he was a repentant king: and it signifies enough, that he had died for it, but that God was pleased to accept of him, and to give him his pardon, 'Thou shalt not die, but the child shall die: Thou hast given cause to the enemies of God to blaspheme.'

KING—I would desire only one word before you give Sentence; and that is, that you would hear me concerning those great Imputations that you have laid to my charge.

LORD PRESIDENT—Sir, You must give me now leave to go on; for I am not far from your Sentence, and your time is now past.

KING—But I shall desire you will hear me a few words to you: For truly, whatever Sentence you will put upon me in respect of those heavy imputations, that I see by your Speech you have put upon me; Sir, It is very true, that——

LORD PRESIDENT—Sir, I must put you in mind: Truly, Sir, I would not willingly, at this time especially, interrupt you in anything you have to say, that is proper for us to admit of; but, Sir, you have not owned us as a Court, and you look upon us as a sort

of people met together; and we know what language we receive from your party.

KING—I know nothing of that.

LORD PRESIDENT—You disavow us as a Court; and therefore for you to address yourself to us, not acknowledging us as a Court to judge of what you say, it is not to be permitted. And the truth is, all along, from the first time you were pleased to disavow and disown us, the Court needed not to have heard you one word; For unless they be acknowledged a Court, and engaged, it is not proper for you to speak. Sir, we have given you too much liberty already, and admitted of too much delay, and we may not admit of any farther. Were it proper for us to do it, we should hear you freely; and we should not have declined to hear you at large, what you could have said or proved on your behalf, whether for totally excusing, or for in part excusing those great and heinous Charges, that in whole or in part are laid upon you. But, Sir, I shall trouble you no longer; your sins are of so large a dimension, that if you do but seriously think of them, they will drive you to a sad consideration of it, and they may improve in you a sad and serious repentance; And that the Court doth heartily wish that you may be so penitent for what you have done amiss, that God may have mercy, at leastwise, upon your better part: Truly, Sir, for the other, it is our parts and duties to do that, which the law prescribes. We are not here *jus dare* but *jus dicere*. We cannot be unmindful of what the Scripture tells us; 'For to acquit the Guilty is of equal Abomination, as to condemn the Innocent.' We may not acquit the Guilty. What sentence the law affirms to a Traitor, Tyrant, a Murderer, and a

public Enemy to the Country, that Sentence you are now to hear read unto you; and that is the Sentence of the Court.

The Lord President commands the sentence to be read: make an O yes, and command Silence while the Sentence is read.

O yes made: Silence commanded.

The Clerk read the Sentence, which was drawn up in Parchment:

'Whereas the Commons of England in Parliament 'had appointed them an High Court of Justice, for 'the Trying of Charles Stuart, King of England, 'before whom he had been three times convened; 'and at the first time a Charge of High-Treason, and 'other Crimes and Misdemeanors, was read in the 'behalf of the Kingdom of England,' etc. [Here the Clerk read the Charge.] 'Which Charge being read 'unto him, as aforesaid, he the said Charles Stuart 'was required to give his Answer: But he refused so 'to do; and so expressed the several Passages of his 'Trial in refusing to answer. For all which Treasons 'and Crimes this Court doth adjudge, That the said 'Charles Stuart, as a Tyrant, Traitor, Murderer, and 'a Public Enemy, shall be put to Death, by the 'severing his Head from His Body.'

After the Sentence read, the Lord President said, This Sentence now read and published, is the Act, Sentence, Judgment, and Resolution of the whole Court.

Here the Court stood up, as assenting to what the President said.

King—Will you hear me a word, Sir?

LORD PRESIDENT—Sir, you are not to be heard after the Sentence.

KING—No, Sir?

LORD PRESIDENT—No, Sir; by your favour, Sir. Guard, withdraw your Prisoner.

KING—I may speak after the Sentence—By your Favour, Sir, I may Speak after the Sentence ever.

By your Favour (Hold!) the Sentence, Sir——

I say, Sir, I do——

I am not suffered for to speak: Expect what Justice other People will have.

O yes: All manner of Persons that have any thing else to do, are to depart at this time, and to give their attendance in the Painted Chamber; to which place this Court doth forthwith adjourn itself.

Then the Court rose, and the King went with his guard to sir Robert Cotton's, and from thence to Whitehall.

THE REGICIDES

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BEFORE Charles II. left Breda to return to England as King, he published a proclamation dated 4-14th April 1660, in which he promised among other things a general pardon for all crimes, to everybody who made submission to the new order of things within forty days, 'excepting only such persons as shall hereafter be excepted by Parliament.' Accordingly, on the 8th of July 1661, the matter was discussed in the Parliament which recalled the King, and a list of excepted persons was drawn up. The House of Lords, as was natural, showed a greater desire for severity than the House of Commons, which gave Charles an opportunity, of which he was not slow to avail himself, of appearing before the House of Lords as an advocate for leniency. The result was that the Act of Oblivion was passed by the newly elected Parliament on 11th July 1661. The Act, which deserves careful study for various reasons, begins by pardoning all crimes committed between 1st January 1637 and 24th January 1660. There then follow exceptions. These include murders not committed under the

authority of the King or Parliament, double marriages, witchcraft, and 'any theft or stealing of any goods, or other felonies' committed since 4th March 1659. But the more important exceptions are contained in three sections, by one of which various persons are excluded from the benefit of the Act, while by the other two some of them are not to be executed without the authority of an Act of Parliament. It is obvious that, as is pointed out by Bridgman in Tichburne's trial, these sections did not affect the functions of the jury in the trials of any of the named persons. Marten, who was in the second category of exceptions, condescended to attempt to defend himself on the ground that his name was Harry Marten, and the name in the Act was Henry Martin; and Cook took a still more technical point of defence on the same subject. In the result the King's conduct in the matter seems generally to have been regarded as lenient, and indeed his character seems to be free from the reproach of cruelty or a desire for vengeance. It is interesting to observe that there was a question of including Milton in the list of excepted persons. He was not, however, so included, and as he would otherwise have been subjected to a long term of imprisonment, we must, if we agree with Lord Campbell in attributing to Hale any credit for the composition of *The Pilgrim's Progress*, consider that Charles

missed a chance of contributing to the writing of *Paradise Lost*.

As a preliminary to the trial a meeting was held to settle certain points of law which it was foreseen would arise. This was attended by all the judges then in office, namely, Sir Orlando Bridgman, Chief-Baron of the Exchequer;[1]

[1] Sir Orlando Bridgman (1606-1674) was the eldest son of the Bishop of Chester. He entered Queens College, Cambridge, in 1619; became a fellow of Magdalene in 1624, and was called to the bar in 1632. He became Chief-Justice of Chester in 1638, and Solicitor-General to the Prince of Wales in 1640. He sat in the Long Parliament as a Royalist, and in the Oxford Parliament in 1644. He was one of the King's Commissioners at the Uxbridge negotiations in 1644-45. He ceased appearing in court under the Commonwealth, but enjoyed a considerable practice as a conveyancer, at that period a very profitable branch of the profession. At the Restoration he was made a Serjeant, Chief-Baron of the Exchequer, and a Baronet. After this trial he became Chief-Justice of the Common Pleas. On the disgrace of Clarendon he became Lord Keeper in 1667, a position in which he did not add to his fame as a lawyer. According to North, he was both ignorant and weak; 'and what was worst of all, his family were very ill qualified for that place; his lady being a most violent intriguess in business, and his sons kept no good decorum whilst they practised under him.' He avoided the political intrigues of the time; he was kept in ignorance of the Treaty of Dover, and refused to let the Declaration of Indulgence pass the Great Seal in its original state in 1672. Finally, when Charles declared the Exchequer closed for twelve months he refused to grant an injunction to protect the bankers who were likely to be ruined. He was accordingly removed from office in November 1672, and was succeeded by Lord Shaftesbury.

Justices Foster[1] and Hide of the Common Pleas;[2] Justice Mallet[3] of the King's Bench;

[1] Sir Robert Foster (1589-1663), the youngest son of a judge of the Common Pleas, was called to the bar in 1610. He supported Charles I.'s most tyrannical proceedings, and became a Justice of the Common Pleas in 1640. He followed Charles to Oxford, and attempted to hold his court there. He was removed from his office by the Parliament, and practised as a conveyancer during the Commonwealth. He was at once restored to his office at the Restoration. After this trial, he was, in the dearth of good lawyers who were also Royalists, made Lord Chief-Justice. He presided at the trial of Sir Harry Vane the younger, who was convicted of treason in compassing the death of Charles II., his real offence being the part he took against Strafford; and was instrumental in inducing the King to sign his death-warrant in breach of the Act of Indemnity. In other trials of political opponents he acquired the reputation of a partisan judge.

[2] Sir Robert Hide (1595-1665) was cousin to Lord Clarendon. He was called to the bar in 1617, and became Recorder of Salisbury in 1638. He sat as a Royalist in the Long Parliament, and joined the King at Oxford. He was committed to the Tower in 1645 and 1646, and deprived of his recordership. He was made a Justice of the Common Pleas in 1660, and Lord Chief-Justice on Foster's death, through his cousin's influence. He was celebrated for his trials of seditious printers, and died in court as he was about to begin the trial of one of them.

[3] Sir Thomas Mallet (1582-1665) came of a legal family, and was called to the bar in 1606. He sat in Charles I.'s first two parliaments, and was made a Justice of the King's Bench in 1641. He came into opposition to Parliament by opposing their measures in relation to the Book of Common Prayer and the Militia, and was twice imprisoned by them and fined. He was replaced on the Bench at the Restoration, at the age of seventy-eight, but retired in 1663.

together with Sir Geoffry Palmer,[1] the King's Attorney; Sir Heneage Finch,[2] the King's Solicitor; Sir Edward Turner, Attorney to the Duke of York; Mr. Wadham Windham, of Lincoln's Inn; and Mr. Kelyng,[3] the reporter. It

[1] Sir Geoffrey Palmer (1598-1670) was called to the bar in 1623, sat in the Long Parliament, was one of the managers of Strafford's impeachment, but rallied to the King's side on the passing of the Act perpetuating Parliament in 1641. He voted against Hampden's motion for printing the remonstrance in November 1641, and was committed to the Tower. He withdrew from the House after the passing of the Militia Ordinance, and sat in the Parliament at Oxford. He was one of the King's representatives at the Uxbridge negotiations, 1644-45, and was committed to the Tower in 1655. He became Attorney-General at the Restoration, and so remained till his death.

[2] See vol. ii. p. 5.

[3] Sir John Kelyng was the son of a barrister, and was called to the bar in 1631-32. He practised for a short time in the oppressive Forest Courts, attempted to present some persons at the Hertford Quarter Sessions in 1642, for what he held to be unlawful drilling under the Militia Ordinance, and was in consequence committed to Windsor Castle till 1660. He was released at the Restoration, and was called upon to supply the place of the King's Serjeant, Glanville, at this trial. He was afterwards knighted, and entered Parliament, where he was employed in drafting the Act of Uniformity. As to his connection with the trial of the Bury St. Edmunds witches, see *post*, pp. 226, 229. He took a prominent part in Vane's trial, and was made a puisne judge in 1663. He was appointed to succeed Hyde as Lord Chief-Justice in 1667, after the post had been vacant seven months. He was said to owe his place to corrupt dealings with Clarendon, or to the favour of Lady Castlemaine, but this is doubted by Campbell, who otherwise takes a most unfavourable view of his career. His subsequent

was there resolved to try the prisoners at Newgate by commission of Gaol Delivery, rather than by a special commission of Oyer and Terminer, so as to proceed with the trial at once; that all the prisoners should be arraigned the first day; that the King's counsel might privately manage the evidence before the Grand Jury (the practice of allowing any advocates to appear before the Grand Jury has long fallen into disuse); that the murder of the King should be precisely laid in the indictment, and be made use of as one of the overt acts to prove the compassing of his death; that any act tending to the compassing of the King's death besides the one laid in the indictment might be given in evidence; that the two witnesses required in treason need not speak to the same overt act;[1] that the fact that a juror had already found another prisoner guilty on the same indictment was no good ground for a challenge; that the prisoners should not be tried in irons; that the murder of the King should be stated to have been committed by

conduct on the bench was such that, though he never presided at any trials of great importance, a petition against him was considered in the House of Commons, and a Committee reported most unfavourably on his behaviour. He made his peace with the House, but sank into insignificance, and died in 1671, still in office.

[1] See vol. ii. pp. 35, 37.

quidam ignotus, with a visor on his face;[1] that the compassing of the King's death should be laid to have been committed on the 29th Jan. 24 Car. I., and the murder itself on *tricesimo mensis ejusdem Januarii*, without naming any year of any king; and that the indictment should conclude '*contra pacem nuper domini regis coron' et dignitat' suas*,' etc.; and other technical matters were settled in the same way. The indictment was in Latin, being preferred after Michaelmas, until which time English was allowed by the Convention which was sitting when the King was restored.

The trials began on the 9th of October 1660, at Hick's Hall in the County of Middlesex, when the Grand Jury were charged by the Lord Chief-Baron Bridgman. True bills were found against thirty-one persons,[2] a true bill being found against Hulet on the 12th.

[1] It does not appear whether any difference was made in Hulet's case.

[2] The Regicides actually tried were Sir Hardress Waller, Colonel Thomas Harrison, William Hevingham, Isaac Pennington, Henry Martin, Gilbert Millington, Robert Tichburne, Owen Roe, Robert Lilburne, Adrian Scroop, John Carew, John Jones, Thomas Scot, Gregory Clement, John Cook, George Fleetwood, Simon Meyn, James Temple, Peter Temple, Thomas Wait, Hugh Peters, Francis Hacker, Daniel Axtell, William Hulet, Henry Smith, Edmund Harvey, John Downes, Vincent Potter, and Augustin Garland. They were all convicted. Of these there were executed—Thomas Harrison, John Carew, John Cook, Thomas Scot, Hugh Peters, Gregory Clement, John Jones, Daniel Axtell, Francis Hacker, Adrian Scroop.

On the next day Thomas Harrison[1] was put up to plead.

CLERK—Thomas Harrison, How sayest thou? Art thou Guilty of the treason whereof thou standest indicted, and art now arraigned? Or not Guilty?

HARRISON—My Lords, have I liberty to speak?

COURT—No more (at this time) than Guilty or Not Guilty. Mr. Harrison, you have heard the direction before. We can but give you the same rule. If you plead Guilty you shall be heard at large; if Not Guilty, you know what remains.

HARRISON—Will you give me leave to give you my answer in my own words?

[1] Thomas Harrison (1606-1660) was born in Staffordshire of lowly origin. He is said to have enlisted in Essex's Life Guard, which was the corps used for the purpose of training officers for the Parliamentary Army, in 1642. In 1644 he was serving in Fleetwood's regiment in Manchester's army. He was present at the battles of Marston Moor and Naseby, and at the captures of Winchester, Basing House, and Oxford. He entered Parliament in 1646, and represented the Army in their quarrels with Parliament. He served with distinction in the second civil war, and was zealous in bringing the King to trial and condemning him to death. He conducted the pursuit of the Royalists after the battle of Worcester, and, continuing to represent the extreme military party, was a party to Pride's Purge. He was a prominent member of the Barebones Parliament, but after its extinction ceased to exercise any political influence. He refused to recognise the government in 1653, and was deprived of his commission. He was afterwards imprisoned on various occasions on suspicion of a connection with Anabaptist and other plots; but at the Restoration refused to pledge himself not to disturb the government or to save himself by flight. The Fifth-Monarchy men professed to look forward to his resurrection to judge his judges and to restore the Kingdom of Saints.

LORD CHIEF-BARON—There is no answer but what the law directs; it is the same with you as with all others, or as I would desire if I was in your condition. You must plead Not Guilty, or if you confess Guilty, there must be judgment on your confession.

HARRISON—You express your rule very fair, as well to me as to this gentleman (pointing to sir H. Waller, who had just pleaded guilty); but I have something to say, which concerns your Lordships as well as myself.

COURT—You must hold, and plead Guilty or Not Guilty.

HARRISON—My Lord, I have been kept close prisoner near these three months, that nobody might have access to me. Do you call me to give you a legal answer, not knowing of my trial till nine of the clock last night, and brought away from the Tower to this place at six of the clock this morning?

COURT—You must give your direct answer, Guilty, or Not Guilty. You cannot say it is sudden or unprovided. You spend your time in vain. You trouble the Court. You must plead Guilty, or Not Guilty. We must not suffer you to make discourses here. You must plead either Guilty or Not Guilty.

CLERK—Are you Guilty, or Not Guilty?

After objecting to plead in this way for a little more time, Harrison was at last persuaded to plead Not Guilty. He then objected to complete the usual formula by saying that he would be tried by God and his Country, saying that they were vain words; but eventually—

HARRISON—I do offer myself to be tried in your own way by God and my Country.

CLERK—God send you a good deliverance.

On the next day, the 11th, at seven o'clock in the morning, Harrison's trial began by the calling of the jury, of whom Harrison challenged thirty-five, his maximum number.

The case was then opened by Finch, the Solicitor-General, who, after explaining the law of treason by quotations from the Bible and Coke, charged the prisoner more particularly with having brought the King up to London; with having signed the warrant constituting the Court which tried him; with having sat as a member of the Court; and with having signed the death-warrant.

All the witnesses were then sworn, six in all.

Masterson proved that he saw Harrison sitting 'in that which they called the High Court of Justice' on the 27th of January 1649, the day when the King was sentenced; and that when the sentence was read he, with others, stood up as assenting to it. *Clark*, *Kirk*, and *Nutley* also gave evidence to the same effect; the latter adding that some few days before the 20th there was a Committee in the Exchequer Chamber of which the prisoner was a member.

I do remember well it was in the evening; they were lighting of candles, they were somewhat private. This gentleman was there, I saw him; for through the kindness of Mr. Phelps, who was then Clerk to that Committee, I was admitted, pretending first to speak with the said Mr. Phelps, and that I had some business

with him; and so (as I said before) I was admitted into the Committee Chamber. Being there I did observe some passages fall from the prisoner at the bar; the words were to this purpose; he was making a narrative of some discourse that passed between his late majesty and himself in coming between Windsor and London, or Hurst Castle, I know not well which. My Lord, that passage that I observed to fall from him in that discourse was this; he said that the King as he sat in the coach with him was importunate to know what they intended to do with him. The King asked, What do they intend to do with me; Whether to murder me or no? 'and I said to him, There was no such intent on as to kill him, we have no such thoughts.' But (said he) the Lord has reserved you for a public example of justice. There is one word more, my Lords, and that is this, which I heard from the prisoner at the bar. The reason and end of their meeting together at that Committee was concerning the charge. So much I observed. It was concerning the contracting of the impeachment. I observed that some found fault with the length of that as it was drawn. They were offering some reasons to contract it, and I heard this prisoner at the bar vent this expression; 'Gentlemen, it will be good for us to blacken him what we can; pray let us blacken him,' or words to that purpose. I am sure 'blacken' was his word.

Lord Newburgh,[1] when he was living at Bag-

[1] Sir James Livingtone was descended from the Livingstones of Callendar. He became a Gentleman of the Bedchamber to Charles, and was made Viscount of Newburgh in 1647. The King was to have escaped from his house at Bagshot on the

shot, saw Harrison conducting the King in custody from Hurst Castle to London. The two warrants, one for the trial, the other for the execution of the King, were produced, and Harrison's signatures to them were proved to be in his handwriting. The Court pointed out that they were not produced as records, but as evidence of overt acts of constituting a compassing of the King's death on his part.

HARRISON—I do not come to be denying anything that in my own judgment and conscience I have done or committed, but rather to be bringing it forth to the light.

COURT—Sir, you must understand this by the way, this you must take along with you, that these are read not as anything of authority in themselves, or as used to any other purpose, but as evidence of the fact against you; take that along with you.

This concluded the evidence; and Windham summed up the case very shortly, concluding, 'I think a clearer evidence of a fact can never

occasion referred to above, on one of his horses, reputed to be the fastest in England, but owing to the horse falling lame, and the strictness of the watch kept on the King, the scheme failed. After the King's execution he fled to the Hague, but returned to Scotland in 1650. He accompanied Charles II. to England in 1651, and after the battle of Worcester fled to France. At the Restoration he was made Captain of the Guard and an earl. In 1666 he, with others, received a licence to dig coal in Windsor Forest. He died in 1670.

be given than is for these things.' [Here the spectators hummed.]

LORD-CHIEF BARON—Gentlemen, this humming is not at all becoming the gravity of this Court. Let there be free speaking by the prisoner and the Court Counsel. It is more fitting for a stage-play than for a Court of Justice.

HARRISON—It is now time, my Lords, to offer what I have to say. Have these learned gentlemen offered what they have to say?

COUNSEL—We have no more till he hath given us occasion, not for evidence of the fact.

HARRISON—My lords, the matter that hath been offered to you, as it was touched, was not a thing done in a corner. I believe the sound of it hath been in most nations. I believe the hearts of some have felt the terrors of that presence of God that was with his servants in those days (however it seemeth good to him to suffer this turn to come on us) and are witnesses that the things were not done in a corner. I have desired, as in the sight of him that searcheth all hearts, whilst this hath been done, to wait, and receive from him convictions upon my own conscience, though I have sought it with tears many a time, and prayers over and over, to that God to whom you and all nations are less than a drop of water in the bucket; and to this moment I have received rather assurance of it, and that the things that have been done as astonishing on the one hand, I do believe ere it be long it will be made known from Heaven, there was more from God than men are aware of. I do profess that I would not offer of myself the least injury to the poorest man or woman that goes upon the earth.

That I have humbly to offer is this, to your Lordships; you know what a contest hath been in these nations for many years. Divers of those that sit upon the bench were formerly as active——[1]

Court—Pray, Mr. Harrison, do not thus reflect on the Court. This is not the business.

Harrison—I followed not my own judgment; I did what I did, as out of conscience to the Lord; for when I found those that were as the apple of mine eye to turn aside, I did loath them, and suffered imprisonment many years. Rather than to turn as many did, that did put their hands to this plough, I chose rather to be separated from wife and family than to have compliance with them, though it was said, 'Sit thou at my right hand,' and such kind expressions. Thus I have given a little poor testimony that I have not been doing things in a corner, or from myself. May be I might be a little mistaken; but I did it all according to the best of my understanding, desiring to make the revealed will of God in his Holy Scriptures as a guide to me. I humbly conceive that what was done, was done in the name of the Parliament of England, that what was done, was done by their power and authority; and I do humbly conceive it is my duty to offer unto you in the beginning that this Court, or any Court below the High Court of Parliament, hath no jurisdiction of their actions. Here are many learned in the law, and to shorten the work, I desire I may have the help of counsel learned in the laws, that may in this matter give me a little assistance to offer those grounds that the law of the land doth offer. I say, what was done,

[1] The Court included Albemarle, Manchester, and Denzil Hollis.

was done by the authority of the Parliament, which was then the Supreme Authority, and that those that have acted under them are not to be questioned by any power less than them. And for that I conceive there is much out of the laws to be shewed to you and many Precedents also in the case. Much is to be offered to you in that; according to the laws of the nations, that was a due Parliament. Those Commissions were issued forth, and what was done was done by their power; and whereas it hath been said we did assume and usurp an authority, I say this was done rather in the fear of the Lord.

Court—Away with him. Know where you are, Sir; you are in the assembly of Christians; will you make God the author of your treasons and murders? Take heed where you are. Christians must not hear this. We will allow you to say for your own defence what you can; and we have with a great deal of patience suffered you to sally out, wherein you have not gone about so much for extenuation of your crimes, as to justify them, to fall upon others, and to blaspheme God, and commit a new Treason: For your having of counsel, this is the reason for allowing of counsel: When a man would plead any thing, because he would plead it in formality, counsel is allowed. But you must first say in what the matter shall be, and then you shall have the Court's answer.

Lord Finch—Though my lords here have been pleased to give you a great latitute, this must not be suffered, that you should run into these damnable excursions, to make God the author of this damnable Treason committed.

Harrison repeats his two points; that what

was done was done by a 'Parliament of England, by the Commons of England assembled in Parliament'; and was therefore not to be questioned by the present Court; and that what any did in obedience to a power which they could not disobey, they ought not to be punished for. Upon these two points he asked to be allowed the assistance of counsel. To this the Lord Chief-Baron replies that the body Harrison refers to was not a Parliament, that Harrison had made himself 'a solicitor in the business,' when he said, 'Come let us blacken him as much as we can'; and that 'neither both Houses of Parliament, if they had been there, not any single person, community, not the people collectively, or representatively, had any colour to have any coercive power over their King.' Annesley—who had, as he says, been one of the 'corrupt majority,' put out of the house at the time of Pride's Purge—and Hollis repeat the same thing. An argument then ensues between Harrison and the other members of the Court on the authority of Parliaments generally; at last—

Harrison—I would not willingly speak to offend any man, but I know God is no respecter of persons. His setting up his standard against the people——

Court—Truly, Mr. Harrison, this must not be suffered; this doth not at all belong to you.

Harrison—Under favour, this doth belong to me. I would have abhorred to have brought him to

account, had not the blood of Englishmen that had been shed——

COUNSEL—Methinks he should be sent to Bedlam, till he comes to the gallows to render an account of this. This must not be suffered.

SOLICITOR-GENERAL—My Lords, I pray that the jury may go together upon the evidence.

SIR EDWARD TURNER—My Lords, this man hath the plague all over him, it is a pity any should stand near him, for he will infect them. Let us say to him as they used to write over an house infected, 'The Lord have mercy upon him,' and so let the officer take him away.

The argument then continues a little longer, chiefly between Harrison and the Lord Chief-Baron; till—

LORD CHIEF-BARON—Mr. Harrison, you have appealed to our consciences. We shall do that, which, by the blessing of God, shall be just; for which we shall answer before the Tribunal of God. Pray take heed of an obdurate, hard heart and seared conscience.

HARRISON—My lords, I have been kept six months a close prisoner, and could not prepare myself for this trial by counsel. I have got here some acts of parliament, of that House of Commons, which your Lordship will not own; and the proceedings of that house, whose authority I did own.

The Lord Chief-Baron then summed up shortly, and the jury brought in a verdict of Guilty, apparently without much hesitation. Sentence

of dragging, hanging, and quartering was accordingly passed in the ordinary terms.

HUGH PETERS[1]

Hugh Peters was called upon to plead on the 9th of October 1660.

Clerk—Hugh Peters, hold up thy hand. How sayest thou? Art thou guilty of the treason whereof

[1] Hugh Peters (1598-1660) graduated at Trinity College, Cambridge, in 1617-18. He was ordained in London, and at once made his mark as a preacher, but being suspected of heresy, went to Holland about 1629. There he inclined to Independency, and through the pressure put on the Dutch by the English government, found it advisable to sail for Boston, where he arrived in October 1635. There he took a prominent part in local affairs, upholding clerical influence against Vane. In 1641 Peters came to England to ask for assistance for the colony, and became Chaplain to the Forces in Ireland. Returning to England, he became famous as a military preacher, preaching exhortatory sermons before assaults on fortified places, and attracting adherents to the Parliamentary forces. He also acted as the confidential agent of Fairfax and Cromwell in dealing with their troops, and chronicled their victories. He was regarded with great aversion by the Presbyterians, and by the numerous persons of other sects to whom buffoonery in the pulpit was distasteful. He upheld the Army against the Parliament, and was credited with a share in drawing up the Army Remonstrance in 1648. He was in Ireland in 1649 and was present at the taking of Wexford. He afterwards continued to occupy an influential position in politics, and indulged in many unpolitical schemes, particularly the reformation of the law, of which he knew but little, and the improvement of religious teaching, both at home and in America. He maintained his influential position till the Restoration.

thou standest indicted, and for which thou standest arraigned? Or Not Guilty?

HUGH PETERS—I would not for ten thousand worlds say I am Guilty. I am not Guilty.

CLERK—How will you be tried?

HUGH PETERS—By the word of God [here the people laughed].

COURT—You must say By God and the Country. Tell him, you that stand by him, what he should say, if he doth not know.

CLERK—How will you be tried?

HUGH PETERS—By God and the country.

The trial took place on the 13th of October, and after the jury were sworn, without Peters making any challenges, the case was shortly opened by Sir Edward Young. He stated that he would prove that Peters was a chief conspirator with Cromwell at several times and several places compassing the King's death; that he preached many sermons to the soldiers urging the 'taking away the King,' comparing him to Barabbas; that he was instrumental in directing the making of the proclamation for the High Court of Justice; that when the King was executed, he was the person that urged the soldiers below the scaffold to cry for justice; and that on the day after the trial he commended it.

Dr. William Young was the first witness. He first made Peters' acquaintance about the time of the siege of Pembroke Castle, in 1648. Afterwards, in 1649, Peters went over to Ireland with

Cromwell, and falling sick of the flux, returned to Milford and sent for the witness.

There I found him, grovelling upon the deck, and sick he was indeed; with much difficulty we got him on shore; within a very few days, to the best of my remembrance five days, I perfected his cure; we became very familiar; I observed in him that he had some secret thoughts that I could not well discover, neither well understand; whereupon I thought it might tend to my security that I should so much sympathize with him, to get within him to know his intentions. After some weeks we grew so familiar, that at last I found he began to enlarge his heart to me. Many times I should hear him rail most insufferably against the blood royal, not only against our martyred king, but against his off-spring; still as we continued our acquaintance, he became more and more open to me; so we would sit up discoursing till about twelve or one of the clock at night very often, about these unhappy wars late in England.

He said that he had been employed out of New England to stir up the civil war; that he had been sent by the Parliament to Ireland 'to receive further instructions to drive on the design to extirpate monarchy'; that he had spent a great deal of his money, but had never been repaid the £2000 or £3000 he had been promised for his journey; he used to vilify monarchy, 'jocundarily scoffing at it, and would ordinarily quibble in this manner, saying "this Commonweath will never be at peace till 150 be put

down." I asked him what this 150 was, he told me the three L's, and afterwards interpreted the meaning to be the Lords, the Levites, and the Lawyers; with that, said I, we shall be like the Switzers, Tinkers, and Traitors.' He had a commission from Cromwell to raise troops for Ireland, he issued two commissions to bring over two troops from Devon, and offered to make the witness a major or captain. Talking of the removal of the King from Holmby House, he said that the Parliament having then a design to secure himself and Cromwell, they

escaped out of London, and rode hard for it, and as we rode to Ware we made a halt, and advised how we should settle this kingdom in peace, and dispose of the King; the result was this, They should bring him to justice, try him for his life, and cut off his head; whether this was the expression of Cromwell I cannot tell; but to the utmost of my remembrance, and I am mistaken if it was not the advice of Mr. Peters to Cromwell; and I believe it, because his former relations of his instructions out of Ireland did tend to that effect.

PETERS—My lord, I desire to speak a word [his voice being low, he was brought to the second bar]. I am the bolder to speak to your lordships at this time a word, and it is high time to satisfy my conscience; if these things were true, there is enough said to destroy me; I desire leave to tell you what offence I take at the witness, thus, my lord. This gentlemen I do know——

COUNSEL—What say you to him?

PETERS—That which I have to say is this, that in his story he hath told that which is not true; but I will not find fault with him, because he was my host, I will not reflect and recriminate: I shall give your lordships in simplicity as much satisfaction myself as any witness; this I say to the man that speaks, and this is certain, I did spend some time at this gentleman's house, he is called there Dr. Young; and my trouble at this discourse is this, I do not know, my lord, that I found a more violent man for the parliament than himself; so far he undertook to be a spy on one side; this I find to be so, he will not deny it; he was very fierce in that way; I think words of such a man ought to be little attended to. The second is this, this gentleman is not a competent witness, and that upon a two-fold ground. First, because I know he is under a very great temptation and trouble in this very thing, and it is upon this account he was put out of his living in the country, and here he came to me to help him in again, and was very highly offended because I did not do it. Secondly, it is not that I would invalidate his witness, but give me leave to tell you, it is his way to snap and catch at every man, which is the complaint of the people in his own country. I know that same which is spoken is false; I speak it in the presence of God, I profess, I never had any near converse with Oliver Cromwell about such things; I speak this to the Jury, that they would have a care of the witness; I was in sickness then; those that have known me do know likewise that I have much weakness in my head when I am sick, and to take words that are spoken in a sick condition, he ought not to do it; for the words themselves I do here profess against them, for the generality of them; and

that he hath been freer in my judgment in any communication in this way than I have been; it is marvellous, here I profess the things untruths; I call God and angels to witness they are not true. I will give you an account of my whole condition by-and-by, if I may be heard.

COURT—You shall be heard at large; that which you have been heard now is concerning the competency or incompetency of the witness: the incompetency against him is this, that when you came thither none more violent for the parliament than himself, and that he was a great spy, and you say it was usual with him to take such courses; these are but words; if you have any witnesses we will hear them; the man may be traduced and slandered, and so all witnesses may be taken away. Mr. Peters, if you take this course, God knows when this business will end; if you have a mind take pen, ink, and paper, and take notes of the witnesses, and make exceptions to them one after another; but interrupting one, and so another, we shall never have done.

YOUNG—I do recollect myself of some other conferences between us; as to my being malicious, I know he never did me any wrong, and therefore I cannot be malicious; and as for my reputation, having resided two years in London I can have certificates both from my country, and some of this city, to vindicate me in that particular; But, my lord, that which I would inform your lordship is this, he told me he took duke Hamilton a prisoner himself in his own chamber, seized on his goods, and took his George and blue ribbon off his shoulder, and the George he shewed me.

William Gunter was a drawer at the Star in

Coleman Street. Oliver Cromwell and several of his party used to meet there in consultation; there were several meetings; he remembered one in particular when Peters was there; he came about four in the afternoon and stayed till ten or eleven at night; they were talking about the King after he was a prisoner, for they called him by the name of Charles Stuart; they were writing something, but the witness could not say what. He could not say whether Peters was there oftener than once, 'but once I am certain of it; this is the gentleman; for then he wore a great sword.'

PETERS—I never wore a great sword in my life.

Starkey deposed that in the December before the King's death, and up to the 12th of the following January, the headquarters of the army were at Windsor, and General Ireton was quartered at his father's house. The Council of War was held there, and Cromwell, Ireton, Peters, Col. Rich, and another gentleman, whose name he forgot, would meet and consult there, and sit up till two or three in the morning very privately together. The witness was often in Ireton's company, and Peters would often come in to meals in the evening.

Mr. Ireton being civil in carriage, would usually entertain discourses with Mr. Peters, likewise would favor me sometimes with discourse; and in that discourse I did many times take occasion to assert the

laws in point of the king; and discoursing about the king as being a capital instrument in the late inconveniences, as they called it, in the times of the war, Mr. Ireton would discourse this ordinarily; I was bold to tell them that the person of the king was *solutus legibus*; this gentleman the prisoner at the bar, told me it was an unequal law. I did observe Mr. Peters did bend his discourse, not by way of argument only, but in point of resolution of judgment, fully against the person and government of the king. I remember some of his expressions were these, That he was a tyrant, that he was a fool, that he was not fit to be a king, or bear that office; I have heard him say, that for the office itself (in those very words which shortly after came into print) that it was a dangerous, chargeable, and useless office. My lords, the constant discourse of this gentleman at that time was such as he did believe would never be called into question, so it was not a thing that a man was necessitated to observe by an accident, but it was their whole discourse. I will put you in mind of a particular passage. When the news came to Windsor that the king was in prison at the Isle of Wight, my father (whose house that was) was very much troubled at it; and being an ancient man, was not able to control his passions with reason, told my mother that they (meaning Mr. Ireton, etc.) should have no entertainment there, and took the key of the cellar and put it in his pocket; his passions being lessened, Mr. Ireton, his wife, and another officer being at supper, and afterwards my father said grace, and, as he usually did, though they were there, he said that usual and honest expression, praying for the king in these usual words, 'God save the king, prince, and realm'; sometimes

they did laugh at it, but never did reflect upon him; but this night he made this expression, 'God 'save the king's most excellent majesty, and preserve 'him out of the hands of all his enemies.' Peters, who was then at the table, turns about to him, and said, 'Old gentleman, your idol will not stand long'; I do conceive he meant it of the king. For a matter of two months of the constant residence and being of the army there, I did observe that in the General Council there, and in this private cabal (after the business was broke out, and when the king was taken prisoner, and carried to Windsor), Mr. Peters was the constant man; and when the business broke out, I looked upon it in reason that Cromwell, Ireton, and this gentleman at the bar, and Rich, and that other gentleman, whose name I have forgot, that they were the persons that did the business. My lords, Mr. Peters he continued at Windsor: I remember very well that after the body of the army, the general, and the officers of the army, were gone to London, he continued at Windsor: I remember a passage of one Bacon, who was a sectary; Mr. Peters being in discourse of the king, Mr. Bacon took great distaste at Mr. Peters for some affront put upon the King; Mr. Peters falls upon him, and rails at him, and was ready to beat him; we understood it so, because he did tell him of his affronting the King.

Counsel—Mr. Peters, if you have any thing to ask this witness, you may.

Peters—I have many things to ask him. Did I ever lie there?

Starkey—No.

Peters—Did you see me there at three o'clock in the morning?

STARKEY—I have seen you go up at ten o'clock at night to Mr. Ireton's chamber, and sometimes I understood you did not go away till four o'clock in the morning: I went to bed it is true, but I understood it so.

Thomas Walkely saw Cromwell, Goodwin, Peters, and others in the Painted Chamber at Westminster on the day after the proclamation for the trial of the King was made. Goodwin sat in the middle of the table and made a long speech or prayer, and then it was ordered that strangers should leave the room, and Walkely went out, and afterwards saw Peters leave the room with the others. When the King was brought to London as a prisoner, Walkely 'saw his majesty in his coach with six horses and Peters, like a bishop almoner, riding before the king triumphing.'

Proctor also saw the King driving into London with the prisoner riding before him, the King sitting alone in his coach. 'My Lord, I did put off my hat, and he was graciously pleased to put off his hat; the troopers seeing this, they threw me into the ditch, horse and all, where I stayed till they pass by, and was glad I escaped so.'

Hardwick heard the proclamation for the High Court of Justice made in Westminster Hall, and afterwards Peters came into Palace Yard and told the officers there that the proclamation must also be made in Cheapside and at the Old Exchange.

Holland Simpson saw the sitting of the High Court; he saw Peters there, but not as a judge.

There was one day in the hall colonel Stubbards, who was adjutant-general (he was a very busy man) and colonel Axtel; Mr. Peters going down the stairs, comes to him, and bids Stubbards to command the soldiers to cry out 'justice, justice, against the traitor at the bar.'

COUNSEL—Who did he mean?

SIMPSON—The King was at the bar at the same time; whereupon, my lord, the soldiers did cry out upon the same; and as the King was taken away to sir Robert Cotton's some of them spit in the King's face, but he took his handkerchief, wiped it off, and smiled.

Thomas Richardson and *Sir Jeremy Whichcot* spoke to casual expressions of Peters which showed approval of the King's trial and deposition.

Richard Nunnelly, sworn.

COUNSEL—Was Peters upon the Scaffold at the time of execution or before?

NUNNELLY—On that unhappy day, 30th of Jan. 1649, this Hugh Peters came an hour before the king came to Whitehall; I came with a warrant of a £40 or £50,000 to Oliver Cromwell, being door-keeper to the Committee of the Army; Nunnelly, says Oliver Cromwell, will you go to Whitehall? Surely you will see the beheading of the king; and he let me into Whitehall; coming into the boarded gallery I met Hugh Peters, and he was in the gallery; and

then I got with Hugh Peters into the Banqueting-House; being there, Hugh Peters met one Tench of Hounsditch, that was a joiner meeting him; he speaks to him, and whispers in his ear, and told him somewhat, I do not know what it was; but Tench presently went and knocked four staples upon the scaffold; I meeting Tench again, What art thou doing? said I. What, will you turn hangman? Says he, This day will be a happy day. Said I, Pray God send it be not a bloody day; upon that Hugh Peters went upon the scaffold just an hour before the king came, and then he went off again. I watched at the window when the king's head was cut off, and afterwards I saw the vizards going into a chamber there; about an hour afterwards (I staying there at the door) there comes Hugh Peters in his black cloak and broad hat out of that chamber (as I take it) with the hangman; I am sure I did see him go along with the hangman to take water; this is all I can remember, it being many years since.

Peters—I humbly beg I may be heard in this case I have here a witness, and I desire he may be examined; it is noised I was upon the scaffold, I here call God to witness I was not out of my chamber that day; I was sick that day; I speak in the presence of the Lord.

Court—If your witness will stay he shall be heard; there are more witnesses to the same thing, and so he may speak to all together.

Dr. Mortimer, sworn.

Mortimer—Me lar, me ha serd de king, etc.

Court—We cannot understand a word.

COUNSEL—He is a Frenchman, my lord.

COURT—Pray let there be an interpreter.

[One Mr. Young was sworn to interpret truly his evidence. But it being afterwards found difficult and troublesome, the Counsel waved his evidence, and prayed another witness might be called.]

MORTIMER—Me Lar, me can peak Englis——

COUNSEL—No, no, pray sit down, we will examine other witnesses. Call Stephen Clough.

Stephen Clough heard there was to be a meeting of the Council of officers at Westminster, about three weeks or a month before the King's execution,

and I being willing (my Lord) to hear what their consultations were, I went thither, and was there as one of them (but I was not one); amongst the rest Hugh Peters was one; when the room was pretty full the door was shut. Mr. Peters was desired to call for a blessing upon their business; in his prayer he uttered these words, 'O Lord (said he) what a mercy it is to see this great city fall down before us! And what a stir there is to bring this great man to trial, without whose blood he will turn us all into blood if he reign again!

Beaver, upon the day appointed for a fast for those that sat then as a parliament,

went to Westminster to find out some company to dine with me, and having walked about an hour in Westminster Hall, and finding none of my friends to dine with me, I went to that place called Heaven, and dined there.

After he had dined he went through St. Margaret's churchyard, and finding it all full of muskets and pikes, asked some soldiers what was their business there. They told him that Peters was preaching in the church, and 'I must needs have the curiosity to hear that man, having heard many stories of the manner of his preaching (God knows I did not do it out of any manner of devotion); I crowded near the pulpit, and came near to the speaker's pew.' He heard Peters preaching on the text about the Jews releasing Barabbas and crucifying Christ; interpreting Barabbas to mean the King, and Christ the Army.

Says he, and because that you should think, my lords and gentlemen, that it is a question, I tell you it is a question; I have been in the city which may very well be compared to Hierusalem in this conjuncture of time, and I profess these foolish citizens for a little trading and profit, they will have Christ (pointing to the redcoats on the pulpit stairs) crucified, and the great Barabbas at Westminster released.

He told the members that they were the Sanhedrim, and that it was they to whom the people looked for justice—

Do not prefer the great Barabbas, Murderer, Tyrant, and Traitor, before these poor hearts (pointing to the redcoats) and the army who are our saviours.

It was proved by the journal of the House of

Commons that a fast had been ordered for the 20th of December 1648.

Chace had heard Peters preaching on the 21st of January; his text was, 'Bind your kings with chains, and your nobles with fetters of iron.' He maintained that the King was not above the law. It was said they had no power to behead the King; 'Turn to your bibles,' he answered, 'and you shall find it there, Whosoever sheds man's blood, by man shall his blood be shed; and I see neither King Charles, Prince Charles, nor prince Rupert, nor prince Maurice, nor any of that rabble excepted out of it.'

PETERS—Ask him if he took notes.

CHACE—No sir, but it being so memorable a sermon I took special notice of it; I came to my brother's house in Shoe lane, and told him; said I, Brother, I have been at Whitehall and have heard the most execrable business that ever was in the world by a minister of the Gospel, and told him the words, and I observed that Oliver Cromwell did laugh at that time when you were preaching.

Tongue, Bowdler, Rider, and *Walker* all gave similar evidence as to Peters' preaching.

Cornelius Glover was called by Peters, but was not sworn. He was Peters' servant at the time of the King's execution; on the morning of that day Peters was ill in his chamber.

I had a desire to go to see the meeting where they were at Whitehall; saith he, 'Thou seemest to have a

great desire to go and look about thee, it is very sad, but if you will go you may.' I did go over the park.

He went about noon, the soldiers and people filled the place, and he went back in a quarter of an hour's time. When he got back, Peters was still in his chamber. He was melancholy sick, as he used to be.

Lord Chief-Baron—Did you desire to go, or did he send you?

Glover—I did desire to go, being newly come to London.

Peters was then called on to make his defence. He began by pointing out that he had nothing to do with the beginning of the war.

I lived fourteen years out of England, when I came over I found the wars begun; I began no war, my lord, nor have been the trumpeter; when I came out of the West Indies I fled from the war into Ireland, to the western parts there. I was neither at Edge-Hill nor Naseby; but my lord, after I came over there was war that the people were engaged in; I was not here in the beginning of it, but was a stranger to the carriage of it. When I came into the nation I looked after three things; One was that there might be sound Religion; the second was that Learning and Laws might be maintained; the third that the poor might be cared for; and I must confess I have spent most of my time in these things to this end and purpose.

He explains how he acted for these ends in

Ireland, and how, being sent over to England, 'that we might have a little help in point of Excise and Customs,' he saw the state of the country, and

in some measure I did stir, but by strong importunities, the ministers of London deeper than I; I am very sorry to hear of my carriage towards the King; it is my great trouble; I beg pardon for my own folly and weakness; I thought God had a great controversy with the nation, and the Lord was displeased on all hands; that which some people took to, I did take unto; I went into the army; I saw at the beginning of it that corruptions grew among them. . . . I had neither malice nor mischief in my heart against the King; upon this I did engage so far, being invited; I went into the wars, and there I found very strange and several kinds of providences, as this day hath been seen; I do not deny but that I was active, but not to stir in a way that was not honourable. I had so much respect for his majesty, particularly at Windsor, that I propounded to his majesty my thoughts, three ways to preserve himself from danger, which were good as he was pleased to think though they did not succeed, and the work died; as for malice I had none in me; I have not persecuted with malice, I will only take off malice.

The *Lord Chief-Baron* reminded him that the business was a matter of fact, and shortly recapitulated the evidence against him. Consulting about the King's death; proposing or determining that he should die; making seditious

speeches, in the pulpit or out of it, would all be overt acts proving treasonable intention. His conversations with Dr. Young at Milford, his meetings with Cromwell and others at the Star, his participation in the councils held at Starkey's house at Windsor, all proved the consulting and proposing. His presence at the meeting in the Painted Chamber; his riding in front of the King when he was brought to London (which Peters interrupted to explain that he did by the King's command that he might procure the Bishop of London to come to him); the part he took in ordering the reading the proclamation about the High Court, which Peters denied; his telling the soldiers to cry out Justice, Justice; his presence at the scaffold before the execution [*Peters*—'I do not profess to your lordship, before angels and men, that I did not stir out of my chamber that day.' *Lord Chief-Baron*—'Counsel doth not put reliance upon that because of what your witness saith, though his evidence is not satisfactory']; his prayers and his sermons all go to complete the case. When Peters objects that some of the witnesses to the sermons are but single witnesses, the judge expressly lays it down that the two witnesses required need not both speak to the same overt act.

The Solicitor then notices the main facts of the case in a still more abbreviated form, concluding:

The honour of the pulpit is to be vindicated; and

the death of this man will preach much better than his life did; it may be a means to convert many a miserable person, whom the preaching of this person hath seduced; for many come here and say they did it 'in the fear of the Lord'; and now you see who taught them; and I hope you will make an example of this carnal prophet.

The jury after a little consultation found the prisoner Guilty; and he was forthwith sentenced to death in the usual terms.

WILLIAM HULET

William Hulet was arraigned on the 15th of October, and tried on the same day. He challenged no jurors, and refused pen and ink because he could not write; but as he had not well understood the indictment he desired it to be read over again, which was done.

Sir Edward Turner opened the case, alleging that Hulet was on the scaffold, in disguise, on the occasion of the execution, and suggesting that it was he who actually beheaded the King; a fact which he proposed to prove chiefly by Hulet's own admissions.

Gittens was the first witness. He stated that he and Hulet were both serjeants in the same regiment at the time of the execution. A day or two before the King came to the scaffold about thirty-eight of them were sworn to secrecy by

Colonel Hewson, and they were all asked whether they would behead the King for a hundred pounds, and a promise of preferment in the army. They all refused. At the time of the execution it seems that part of the regiment was on guard in Scotland Yard, and part in the Banqueting Chamber and on the scaffold. The witness was with the former part, but managed to get near the scaffold before the execution actually happened. 'Hulet (as far as I can guess), when the King came on the scaffold for his execution, and said, Executioner, is the block fast? fell on his knees.'

COUNSEL—Who did?

GITTENS—Hulet, to ask him forgiveness; by his speech I thought it was he. Captain Atkins said, who would not undertake to do this fact? I told him I would not do it for all the city of London; no, nor I neither for all the world, saith Atkins; you shall see Hulet quickly come to preferment; and presently after he was made captain-lieutenant.

COUNSEL—Was he with his regiment that day?

GITTENS—We could not see him with the regiment all that day; he was never absent at any time before.

COUNSEL—Did you know his voice?

GITTENS—Yes, sir. He had a pair of freeze trunk breeches, and a vizor, with a grey beard; and after that time col. Hewson called him 'father grey beard' and most of the army besides, he cannot deny it.

In cross-examination Gittens repeated that he knew Hulet by his voice, and that he was

by Captain Webb at the door of the Banqueting House.

Stammers was afterwards in Hewson's troop when Hulet was captain-lieutenant, and marched at his orders to Luttrels-town; there Hulet questioned him as to his previous service, and asked whether he had ever served in the King's army: 'with that he walks about the room two or three turns; saith he, I was the man that beheaded King Charles, and for doing it I had an hundred pounds, saying I was a serjeant at that time.'

Cross-examined, he said that he had been in the troop about a fortnight; and that when he first saw Hulet he pretended that he was brother to one Chambers. Hulet said that his evidence did not agree with that which he had given in his examination at Dublin, and desired that the latter might be read; which was done, and it agreed with the testimony he had just given.

Toogood was in Dublin in 1650, about September; he had some business with Hewson, where he saw Hulet, and observed that he was very familiar.

I asked Hewson what he was, he told me he was his captain-lieutenant of horse; I desired to know where he had him? he told me he made him so from a serjeant, and a very mettled fellow he was; it was he that did the King's business for him upon the scaffold. In 1653 there was a disbanding of the army in Ireland;

this gentleman was then continued captain-lieutenant in Pretty's regiment; I discoursed with Pretty concerning him, and one part of it, I remember, was about the King's death; and he did tell me that he was assured by col. Hewson that Hulet either cut off the King's head, or held it up, and said, 'Behold the head of a traitor.' Col. Pretty could not tell me which of the two it was; but I saw the person that did it, and methought he did resemble this person.

Twelve months afterwards he came to live near the prisoner in Ireland, and meeting him at the White Horse in Carlow, asked whether he was the man that cut off the King's head or not.

Saith he, Why do you ask me this question? I told him I had heard so by several, namely by Hewson and Pretty; upon that he said, 'Well, what I did, I will not be ashamed of; if it were to do again I would do it.' Once since that time, about half a year afterwards, I was in the same place, and there talking about the King's death, he was telling me it was true, he was one of the two persons that were disguised upon the scaffold. I desired to know what if the King had refused to submit to the block? saith he, there were staples placed about the scaffold, and I had that about me that would have compelled him, or words to that effect; other times I have heard him speak something to this . . . I have observed in Ireland, that it hath been generally reported that he was either the man that cut off the King's head or he that held it up, as I said before, and I have heard them sometimes call him Grandsire Greybeard.

Walter Davis had two years before been drinking with Hulet in Dublin, and

said I to Hulet, I pray resolve me this one question; it is reported that you took up the King's head, and said, Behold the head of a traitor; Sir, said he, it is a question I never yet resolved any man, though often demanded; yet, saith he, whosoever said it, it matters not, I say it now; it was the head of a traitor.

Lieut.-Colonel Nelson had asked Colonel Axtell (who had just been tried and condemned) who were the two disguised persons on the scaffold.

He told me I knew the persons as well as himself; saith he, they have been on service with you many a time; pray, sir, said I, let me know their names? Truly, said he, we would not employ persons of low spirits that we did not know, and therefore we pitched upon two stout fellows. Who were those? said I. It was Walker and Hulet, they were both serjeants in Kent when you were there, and stout men. Who gave the blow? said I. Saith he, poor Walker, and Hulet took up the head; Pray, said I, what reward had they? I am not certain whether they had thirty pounds apiece or thirty pounds between them.

Col. Thompson and *Benjamin Francis* both saw the execution, and said that it was a man disguised in a light wig that cut off the King's head.

Hulet said he could bring thirty or forty witnesses to prove that some one else did the act, and others to prove that he was not there

on that day; he also produced a paper of examinations taken before the Lord Mayor, being of Mary Brandon and others. He was reminded that he had been examined in the Tower, and admitted that he was then charged with cutting off the King's head. 'Then,' said the Chief-Baron, 'you had time to provide your witnesses,' to which Hulet replied that he had been a close prisoner since then. He further said that he had been a prisoner, together with six or eight others, on the day of the execution; they were imprisoned because they refused to be on the scaffold. Hulet wished to call Hacker, Huncks, and Phayre, but the Court pointed out that Hacker had already been tried for his life (and condemned), and that Phayre was a prisoner in the Tower. Huncks had been called as a witness against Axtell. Hulet then called a *Sheriff's Officer*, who said that he had been told by one of his fellow-officers

that he was in Rosemary Lane a little while after the execution of the King, drinking with the hangman [*i.e.* George Brandon], that he did urge him whether he did this fact; God forgive me, saith he, the hangman, I did it, and I had forty half-crowns for my pains.

Abraham Smith—My Lord, as soon as that fatal blow was given I was walking about Whitehall, down came a file of musketeers; the first word they said was, Where be the bargemen? Answer was made, Here are none; away they directed the hangman in

my boat; going into the boat he gave one of the soldiers a half-crown. Said the soldiers—Waterman, away with him, be gone quickly; but I fearing this hangman had cut off the King's head, I trembled that he should come into my boat, but dared not examine him on shore for fear of the soldiers; so I launched out, and having got a little way in the water, said I, who the devil have I got in my boat? Says my fellow, says he, why? I directed my speech to him, saying, Are you the hangman that cut off the King's head? No, as I am a sinner to God, saith he, not I; he shook every joint of him; I knew not what to do; I rowed away a little further, and fell to a new examination of him, when I had got him a little further, Tell me true, said I, are you the hangman that cut off the King's head? I cannot carry you, said I; No, said he, I was fetched by a troop of horse, and I was kept a close prisoner at Whitehall, and truly I did not do it; I was kept a close prisoner all the while; but they had my instruments. I said I would sink the boat if he would not tell me true; but he denied it with several protestations.

William Cox — When my lord Capel, duke of Hamilton, and the Earl of Holland were beheaded in Palace Yard in Westminster,[1] my lord Capel asked the common hangman, saith he, Did you cut off my master's head? Yes, saith he. Where is the instrument that did it? He then brought the ax. This is the same ax. Are you sure? saith my lord. Yes, my lord, saith the hangman, I am very sure it is the same. My lord Capell took the ax, and kissed it, and gave him five pieces of gold. I heard him say, Sirrah,

[1] In 1648-49, after the taking of Colchester in 1648.

wert thou not afraid? Saith the hangman, they made me cut it off, and I had thirty pounds for my pains.

Richard Abell heard one Gregory confess that he cut off the King's head. The Lord Chief-Baron then asked Hulet whether he wished for any further time to examine into the truth of the matter; but on his saying that he needed a fortnight for the purpose the trial was proceeded with at once.

A STRANGER—My Lord, I was with my master in the company of Brandon the hangman, and my master asked Brandon whether he cut off the King's head or no? He confessed in my presence that he did cut off the King's head.

The Lord Chief-Baron then summed up the case, briefly repeating the substance of the evidence. He pointed out that the evidence went two ways, meaning apparently that Hule either cut off the King's head, or held it up after it was cut off, and whichever he did, the jury ought to find him Guilty. He concluded by telling them that they were not to consider what was said of the prisoner by another unless it was corroborated by what the prisoner said.

After a more than ordinary time of consideration the jury returned to their places, and found the prisoner Guilty.

Hulet was brought up for sentence on the

16th of October, and sentenced to death in the usual way, with other prisoners. At the same time he was informed that his execution would be delayed in order that the King's pleasure might be known. He was eventually reprieved.[1]

[1] It seems now to be considered fairly certain that Richard Brandon was the man who actually cut off the King's head. He died the next June, after having executed Lord Capel and his companions in the rising which terminated in the siege of Colchester. It is the more curious that Hulet should have been tried for the offence, because Brandon certainly incurred the odium attaching to the act at the time of his death; and it seems that the fact was mentioned on an inscription on his grave. As far, however, as the evidence given at the trial is concerned, it seems possible that Hulet was the second masked figure on the scaffold. All that is known on the subject is set out in the *Dictionary of National Biography*, under the title 'Brandon.' See too a note by Mr. F. G. Stephens in *Notes and Queries*, 5th series, vol. v. p. 177.

COLONEL TURNER AND OTHERS

COLONEL TURNER AND OTHERS

THE trial of Col. James Turner, John Turner, William Turner, Mary Turner, and Ely Turner, at the Old Bailey, for Burglary, 1664.

The foregoing persons were all indicted together, the first three for committing burglary on the 7th of January 1664 at the house of Francis Tryon, and stealing a quantity of jewellery, some gold, and £1023 in cash; Mary, who was the wife of James, and Ely for receiving and comforting John the next day.

They were tried before Lord Chief-Justice Hyde[1] of the King's Bench, and Lord Chief-Justice Bridgman[2] of the Common Pleas.

All the prisoners pleaded Not Guilty.

Turner then complained that Sir Richard Ford, the sheriff, was in possession of his house and goods. Bridgman, Chief-Justice, explained that, though once it had been the sheriff's duty to take process against the goods of an indicted man, this was done no longer since the statute of Philip and Mary;[3] but as their responsibility

[1] See *ante*, p. 126. [2] See *ante*, p. 125.

[3] 1 and 2 Philip and Mary, regulating bail so as to prevent

continued unaltered, they ought to have good security. Eventually it was settled that the sheriff should let Turner have what he wanted for the night, and bring what papers he wanted into Court the next day.

The next day a jury was sworn, and Sir Thomas Aleyn was called.

Lord Chief-Justice Hyde.—Pray, Sir Thomas Aleyn, tell your knowledge to the jury.

Sir T. Aleyn.—May it please your lordships, and you gentlemen of the jury; Upon Friday morning last was sevennight, I heard of this robbery at Guild-Hall, and the person robbed being my acquaintance, I went to visit him in the afternoon; and coming there, not thinking but the business had been already examined, several persons with Mr. Francis Tryon put me upon the business to examine it. I went and examined the two servants, the man and the maid: upon their examination I found they had supped abroad at a dancing-school, and had been at cards, and came home afterwards; but before they came home, they heard that an ancient gentleman, one Mr. Tryon, was robbed, and then they hastened home. I examined them further, whether they used to go abroad after their master was in bed? The

justices admitting prisoners to bail collusively. This statute 'was, in fact, the origin of the preliminary inquiry, which has come to be in practice one of the most important and characteristic parts of our whole system of procedure, but it was originally intended to guard against collusion between the justices and the prisoners brought before them.'—Stephen's *History*, vol. i. p. 237.

man confessed he had been abroad twenty or thirty times at col. Turner's house at supper, about a year since. The maid denied they had been there at all: but it is true the man's saying he supped there (although it was false) was the first occasion of suspicion of col. Turner.

When I had examined these two, I went to the examination of Turner, Where he was all that day, where at night? he told me, at several places and taverns, and in bed at nine of the clock, and was called out of his bed: but having myself some suspicion of him, I wished him to withdraw. I told Mr. Tryon, that I believed if he was not the thief, he knew where the things were. The old gentleman said, He could not mistrust him, he had put a great confidence in him: but I desired him to give me leave to charge him with it; and thereupon I called him in, but he denied it; but not as a person of his spirit, which gave me some cause of further suspicion. I desired t search his house; nay told him I would, whether h would or no. He desired to go home; I told hin if he would go with them (some persons there) he should: but you shall not speak with your sons o daughters, or servants; they shall be examined by me. They searched his house, the marshal and constable, they said they could find nothing. The old gentleman was very unwilling to charge him with felony; some friends there were as well satisfied as I was, that he was guilty of it; and they brought me a paper that he would charge him: and thereupon I wished him to read that paper, told him I could do no less than send him to Newgate. Says he, you will not undo a family will you? Will you not take bail? No I cannot. What proof have you material against

me? I will give you as good bail as any man; give me leave to speak with Mr. Tryon. I did give him leave: he had no sooner spoke with him, but Mr. Tryon would not charge him, he promising to endeavour to find the thief. I took Mr. Turner on one side, and told him, I did as verily believe if he was not the thief, he could find him out, as I believed I should go home to my wife and children; and I said, That if an angel from Heaven should come, and tell me otherwise, I could hardly believe it. This passed on this night: I could not sleep all the night, still it was in my thoughts that this man was the man that had done the robbery.

The next morning Alderman Love told him that if he went presently to the Minories, he would meet with Love's maid, who would help him to discover the person who robbed Tryon; accordingly, taking Major Tasker, whom he met in Bishopsgate, with him, he went without Aldgate, where

I met with two maids that were the persons to shew me the place: the maid told me these were the maids. I bid them come behind me. At the further end of all the Minories I went into the shop, and found col. Turner with his hands in a chest: I charged him to take nothing out, and not to stir himself. There were two wallets, one of £100 and the other £200. I took the keys from him, laid them upon the compter: I went with him into the next room, which was the kitchen, and in another chest was two wallets more: and now the gentleman was speechless. I told him it was just as I told him the last night, that

your roguery would come out; what (said I) is become of the rest of the money? Says he, Your haste will spoil all. I called in the maid, to examine her: but she was fearful, and so trembled there was no examining her before col. Turner. But in conclusion, said I, Col. Turner, if you will tell me whether this be Mr. Tryon's money, I will do you all the favour I can. Says he, I cannot say it is his money. I called for a constable, and made a Mittimus to send him to Newgate, thinking he would discover the truth. Said I, Will you give me your examination? He did: It is in court. I asked him whence this money came? He told me it was removed by himself, his wife and children this morning.

Turner—My son and I, I told you.

Sir T. Aleyn—I asked him where he had received it? He told me at a goldsmith's 14 days since: He did not remember his name. I asked why he should remove his own money? His answer was, He did remove it for two or three days, till this foolery was over. When I saw I could get nothing further from him, I discoursed with him touching the remainder or the money and the jewels. Says he, Sir Thomas, do not trouble yourself, you will lose the jewels and the rest of the money by this course; and, says he, I am now in pursuit of them. If you will give me leave to go to the old gentleman, I know all will be well. I was not content to let him go: But presently we called a hackney-coach, and myself and him, and major Tasker went, and carried that money to Mr. Tryon. When we came there, I told Mr. Tryon I thought we had brought £500 of his money; and I did not doubt but I had brought a person that could tell of the rest of the money and jewels. Col. Turner desired to

speak with Mr. Tryon himself in private. I gave him leave. He calls me a little after: Sir, says he, Mr. Tryon and I am agreed; I must have this money delivered to me again; I have assured him he shall have all his money and jewels again by 3 this afternoon. I told him I could not agree that he should have the money back again, pressed him that he would stay there, and send for the rest of the money and jewels. But he [*i.e.* Mr. Tryon] would (if I did not) trust him: Mr. Tryon would have the rest of his money and all his jewels again.

Turner—I said, I would endeavour it.

Sir T. Aleyn—If he had said he would have endeavoured it, I would not have parted with him; but he said he should have the money and jewels, etc.; I told him I would meet him at that time at Mr. Tryon's. Then I took Mr. Tryon, and said Whatever promise you have made in private, you must excuse my assenting to anything against the law: But do not tell him of it, lest you lose the jewels: I must commit him to Newgate, and I must bind you to prosecute him. He desired me if I would not come so early as 3, not till 4 or 5 of the clock, and all would be brought thither. I staid till about 4. In the interim, I heard some particulars, what these maids would testify; which testimony had I received before I had parted with him, I would not have parted with him for any consideration. But when I came thither in the afternoon, I heard col. Turner was arrested, and was then at the Hoop-tavern with the officers. I sent immediately the Marshal and his men to bring him to me. The officers and he came; and then col. Turner told me, I had brought all these things, but the officers prevented me; I was a very

unfortunate man: Give me leave but till to-morrow morning at 9, and you shall have all. Said I, I have now heard more; and you must produce the money and jewels if you expect any favour from me or I know what to do. He pressed very hard for an hour, or almost two, that he might be trusted to go for them; if he did not go Mr. Tryon would lose the rest of his money and jewels. I told him I had rather they should be all lost, than I should forfeit my discretion and reputation. And thus he kept us till 7 or 8 at night. At last he would have gone with one person. I told him, no: If there were enough to secure you, I might give leave. Saith he, the party will not see more than one; for his life would be in danger. Whither would you go? I would go, saith he (to my best remembrance) to Tower-Hill or Whitechapel. I should have met him at 5; and now I must meet him about 9. I will call in the officers: They will tell you, your being upon a Judgment, they will not part with you without the Liberties: Nor will I give leave, because the Sheriffs will blame me. The officers said they could not go without the Liberties, for it would be an escape in law. Pray give me leave to go near those places, and I will send. Nay, then you may as well send from hence. He begged leave to go to the Hoop-tavern, and send for his wife; which I did grant. And there he did send for his wife. They brought me word he had sent his wife for the jewels and the rest of the monies. He sent to me not to think the time too long, for he had notice his wife was coming. I directed the Marshal, when his wife came, he would secure her. About 11 they brought his wife; who told me also she had delivered the jewels: they thought they were in two

bags. Then he came to me, and desired to speak with Mr. Tryon in private, and told me Mr. Tryon's soul was pawned to him, and his to the thief, that no discovery should be made. But when I examined his wife what money went from her house that morning, she said she knew of none. Where had you the jewels? She knew of none: But she had a couple of bags that she was sent for: Near Whitechapel or the Tower a person should meet her, and ask what she did there, and she should say she walked up and down for something that should be given her by a person; which, if he did, she was to bring it to him that sent her. He did deliver the two bags, which she delivered to her husband; but what was in them she knew not. There was sir Thomas Chamberlane, Mr. Millington, myself and col. Turner, with Mr. Tryon. The two bags was laid upon a dresser. He told us they were now come; and having performed his part, he hoped Mr. Tryon would perform his. Have you performed your part? Have you brought the jewels and the remainder of the money? He told us the money was not brought: For the £600 I shall give Mr. Tryon my bond, to pay him at six months. We pressed to see the jewels: We run them all over. But I should have told you one thing: She brought a cat's-head-eye-ring upon her finger. This the gentleman was like to forget: He delivered it to me, to deliver that with the rest. When we had told out the jewels we crossed them out upon the printed paper as they were called. She said all that was in the paper, except one carcanet of diamonds and jewels, valued at £200 that is fallen behind the chest or aside. You have £2000 worth of jewels over what is in the paper; but the carcanet shall be forthcoming. He now pressed that

no prosecution might be, for two souls were pawned (as I said before) and desired an end of the business. I told him further and pressed him: Said I, I have staid a great while, and would stay longer, if he might have the £600 and the carcanet. But when I saw there was nothing more to be got from him, now (said I) what would you have this poor gentleman to do for you? What he hath promised you I know not; he is a stranger to the law: If there had been but you two had it, and it had not been published to the world, and the neighbours' public examination taken, somewhat might have been between ourselves. But would you have this gentleman bring himself into danger? He will lose all his goods again; for he will be indicted himself. What will he be the better for discovery, when he must lose his jewels and money, and be liable to a prosecution, as you will be. were he so ignorant? Do you think that I understan the law no better, being a justice of peace, to brin myself into danger? All the kindness I can do fo you is (to be short), I must send you and your wife to Newgate. 'How say you, master Alderman?' Then I had better to have kept the jewels. Those were his words; to the best of my remembrance he said so. My lord, I asked him several questions: Why he should give a bond for £600, if he were not concerned in this business? But he knew not what to answer. Saith he, Will you not take bail? Said I, I can take no bail: I must send you to the common gaol, and then I am discharged. Pray send me to the Compter. No I cannot. Do you think I would make an escape? I cannot tell; but I would not bring myself into danger. He prayed me I would give him leave to go home. I must make my warrant: If the marshal and

constable will do anything, I shall not direct them. He desired his wife might go and fetch some linen.

Lord Chief-Justice Bridgman—What day were the jewels delivered?

Sir T. Aleyn—Saturday.

Lord Chief-Justice Bridgman—Thursday was the robbery, Friday he was examined, Saturday the money was removed, and that night the jewels were brought and he committed.

Sir T. Aleyn—If I have said any thing that he is not satisfied wherein I have not true spoken, let him ask me; I shall not do him the least wrong.

Lord Chief-Justice Hyde—Do so, Mr. Turner.

Turner—Do your honours understand of Sir Thomas the time the robbery was committed? I shall ask him some questions.

Sir T. Aleyn—I have only one more word to say to you: That before he went to the Hoop-tavern, Nay, said I, col. Turner, be ingenuous whether this was not Mr. Tryon's money that he removed? And he confessed it was.

Lord Chief-Justice Hyde—The money was removed from his own house.

Sir T. Aleyn—Yes; but his wife, children, and maid denied it.

Lord Chief-Justice Hyde—Mr. Turner, will you ask him any questions? What are they?

Turner—I would ask all this back again: You are upon your oath, Mr. Alderman.

Lord Chief-Justice Hyde—You need not tell him that he is sworn; the court and jury understand it so.

Lord Chief-Justice Bridgman—Go on, Mr. Turner, ask your questions.

TURNER—My Lord, I demand of sir Thomas Aleyn whether I did not tell him at the first there was a wicked young man had belied my house and family, saying, that he supped there that night, when he had not supped at my house these 12 months.

SIR T. ALEYN—I think I have done him that right already. He desired me to examine that young man, who said he had supped at col. Turner's; but I found he had not been, nor was not there.

TURNER—Upon Friday night, when the alderman pressed me concerning the thing, I told him I had some suspicion of some persons, who formerly should have robbed Mr. Tryon a year ago, and I employed Mosely the constable and Mr. Tryon's man to go to Ratcliff, and I went another way. Pray ask sir Thomas whether I did not promise to do all I could.

SIR T. ALEYN—I pressed him hard; he said he would endeavour it.

TURNER—Whether did not I tell him that that money was carried there on purpose to gain the other fellows that had the jewels? Said I, If this money be taken away, he that hath the jewels will not bring them, and the remainder of the money; but that this money must bring him to it, that they might share it.

SIR T. ALEYN—There was not one word of this: his Examination was contrary. He told me £400 was received of a goldsmith, he knew not his name, and £200 was in his own house; and that he removed it for two or three days, till this foolery was over. He said it was his own money. I said, an honest man need not thus remove his own money. One thing I have omitted: when I was examining of him in the Minories, word was brought me his son was fled away at the back door. I bid them run after him; but

they said they saw him leap over a great ditch, he was not heard of till yesterday, though I sent out my warrants for him.

Lord Chief-Justice Hyde—Yourself (as sir T. Aleyn swears) said you knew not of whom you had part of the money, but the other was your own, and yet afterwards that the money was Tryon's; why did you say so?

Turner—I will tell you the reason; I would not have my business spoiled, and did feign those answers. My lord, I do demand of him whether Mr. Tryon and I had not made a bargain in the morning, whether or no if he might have his goods the person should be free, and that he agreed no blood should be spilt; that he had rather lose all his money and jewels, than to forfeit such an asseveration which the thief had bound me that I should swear to him, That by the blood of Jesus Christ that was shed for him and all sinners, his life should be free.

Lord Chief-Justice Hyde—You are beside the business.

Turner—My lord, I ask alderman Aleyn whether I did not tell him this?

Sir T. Aleyn—I told your lordships two souls were pawned, as he said before.

Lord Chief-Justice Hyde—Do not spend your time thus; the question's short, Whether you are guilty of robbing, or breaking the house of Mr. Tryon or no?

Turner—I am as free as any man here.

Lord Chief-Justice Hyde—They will not believe your own words.

Mr. Tryon, pray (as you are able) give an account of this business.

Tryon—My Lord, about 11 of the clock, or some-

ing past, upon Thursday night last was a seven-
ght, two men came into my chamber when I was
st asleep, one on the one side, and another on the
her side of the bed: one had a lanthorn that opened
one side, and waked me: when I saw him I was
uch astonished (as I might well be); but as I knew
em not, I said, My masters, who are you? I was
ewly out of my sleep; being an ancient man, I appre-
ended another man for the party I spoke to, but he
as not the man; and I named him by his name,
What do you do here at this time of night? What
your business? Said nothing to me; one took
oth my hands, the other with a little cord bound
e very hard, insomuch here yet is the dents of it;
nd bound my feet; gagged me, and used me bar-
arously, most inhumanly; I must suffer it, because
could not tell how to avoid it. When they had
one, then told me this withal, You shall not lose
hair of your head. I knew not their intentions, I
eared what it was, for when they had done this, they
eft me; I had nobody could come to me in my house,
ny servants, I knew not upon what grounds, they were
orth at supper when I was a-bed, which was of ill
onsequence. After I had been an hour in this manner
rolled myself out of my bed, and fell down; and
aving your lordships' presence, a chamber-pot fell,
roke, and I fell upon it, and very much hurt myself
pon the pieces of the pot: and so with much ado,
t pleased God, I know not how myself, I got to the
hamber-window which lay to the street; I called
ut, Murder! and Thieves! My neighbours said,
called with so strong a voice they wondered to
ear me. Quickly after, many of my neighbours
ame in, and one Mr. Peter Vanden-Anchor, a

Dutchman, that selleth Rhenish wine, he came in and unbound me; and so after I was unbound I went down to the warehouse as I was, without clothes about me, only my waistcoat and shirt, and saw that they had been there. I considered those that had done the thing, were very privy to my house; they knew where to fetch the key of my cash, in a drawing-box, taking the money there, which was about one thousand and odd pounds; some plate there was, they did not meddle with it.

Lord Chief-Justice Hyde—How came they by the jewels?

Tryon—I forgot something concerning some jewels; these jewels were in a drawer under my table in the compting-house, he was privy to that, because he did frequent my house very long and was very familiar.

Lord Chief-Justice Hyde—Who was privy to all this?

Tryon—James Turner.

Lord Chief-Justice Hyde—Mr. Turner, would you ask Mr. Tryon any questions?

Turner—By and by, when I come upon my proof.

William Hill, Mr. Tryon's man, was sworn, and stated that he had locked up the house at eight o'clock, when the jewels were safe, and Mr. Tryon was in bed. When he came home he found the money and the most valuable of the jewels gone. On Saturday Turner was arrested and sent for the witness, who went to him with two friends, Gurney and Pilkington. Turner asked him to persuade his master to procure his discharge so that he might go about his business,

or it would be ruined. 'Proceeding into some discourse, I was saying to him it was a great providence that I and the maid was not then at home, for if we had, we should have been killed. He answered, saith he, No, they would only have bound you and the maid. I asked him, how it was possible to get in? He answered, one went through the entry in the daytime, and there lay till night, went upstairs, found a candle, lit it, went up to his chamber, took the key and went down and let in the others.' Turner had talked to him about Tryon's will; he said it was a pity he did not make one; Tryon had told him he had made one, but he knew he had not done so. 'He told me of one that could counterfeit a hand.'

BRIDGMAN, LORD CHIEF-JUSTICE—Was it no' Grainger?

HILL—Yes, my Lord; that that man could counte feit a will, and I and Mr. Garret and another goc fellow should be the three executors and a thir person overseer, and that would please the old man. I answered I would not have to do in such an unjust thing for all the world.

He had been to supper that night at Starkey's, with the maid. He got to the house after the robbery had been discovered, and found the neighbours in the house when he arrived there.

TURNER—This thing touching the will has another face; his uncle was an acquaintance of Mr. Grainger,

his uncle that bound him an apprentice, that lived in Cripplegate, now in Cornhill. This Grainger had counterfeited a will touching my Lord Gerrard and some one else, about an estate. Said I to this young man, You have an uncle acquainted with a notable fellow, one Grainger, and your master making no will, speaking merrily, this fellow is able to make it for him. Ask him if I did not tell him his uncle was acquainted with such a person.

HILL—You told me so indeed.

BRIDGMAN, LORD CHIEF-JUSTICE—Hill, by your oath you have taken, did he not persuade you to endeavour that you and he and Grainger should counterfeit a will?

HILL—He did, my lord, I answered that I would not meddle with it for all the world.

TURNER—Go, go, go, this is malice; for it was mere jesting with him.

Elizabeth Fry proved that Mrs. Turner came to her house at six in the morning, and said that 'a friend of hers, a merchant, newly broke, had a wife, and seven or eight children; they desired to secure the money' (which Mrs. Turner brought) 'till they had taken their oaths the money was not in their house.' She said her husband and her son Ely were coming with it. The witness allowed her to put wallets containing money, she did not know how much, into her chest. Mrs. Turner said her husband was coming with more, and when he came he offered her twenty shillings for her kindness; they both

asked her to conceal the money because the discovery of it would ruin the poor gentleman and his children. She did not see the bags sealed; there were three wallets, one was put into a chest in the shop, and two in the kitchen. There was a discourse of £1100. There were five wallets brought into the house; three in the shop, and two in the kitchen.

Sir T. Aleyn—You hear what the wench says, she says there was five wallets, three in the shop, two in the kitchen; I took two in the shop, and only one in the kitchen.

Turner—Pray, my lord, ask her which is Ely.

Fry—That is [pointing to Ely].

Turner—It was false; this Ely carried none; both my sons are dear to me, and if either carried more than the other it must be my eldest; and yet I must say, it was John, my eldest son that carried the money, this boy was at home; she hath foresworn herself.

Gurnet met Turner on the Exchange the Saturday after the robbery; Turner told him that he was going to make a discovery and clear himself; he had brought £500 and was going to bring the rest of the money and jewels at three o'clock.

Major Ralph Tasker corroborated Sir T. Aleyn's account of seizing the money in the Minories:

then I saw a fellow play bo-peep in a back-room, and presently was a noise, he was gone and fled;

his son they said it was. Sir T. Aleyn pressed very hard to Mr. Turner, and desired to know whose money that was. Says Turner, By the eternal God, it is my own money, with many other protestations of his innocence. A constable was sent for, and we carried the money and Turner in a hackney coach to Mr. Tryon, and there left the money on a table with Mr. Tryon. They had some discourse; Turner came forth and said, The old gentleman and I are agreed, I will trust the money no longer with you, but with the old gentleman himself. Said I, let me be discharged of it, do what you will with it.

Bridgman—Did you see the bags out of the wallet?

Sir T. Aleyn—We saw one which was sealed, I think, with the bishop of Chichester's seal.

Ann Ball proved that Mr. and Mrs. Turner had left some money at her house with the maid. The maid went to her sister and acquainted her with it. In this way the knowledge of the money came to Sir T. Aleyn.

Frederick Ixam was present when the bags were taken out of the wallets at Mr. Tryon's house: three of them had no seals; one had a seal very much defaced; one had a seal which was the same as that on a letter from the bishop of Chichester produced by Mr. Tryon. The bags were in court.

Hanson and *Mr. Tryon* proved the agreement of the seals, and the bishop of Chichester's letter, which was produced.

Cole, a serjeant, and his brother, a yeoman, proved that they arrested Turner in a civil suit about three o'clock on Saturday afternoon. Soon after the constable came and charged them to assist in taking him before Sir T. Aleyn.

By and by I was saying, Col. Turner, how could this house be robbed, and none of the doors broke? O, said he, I took a man in the Minories, who has discovered it to me; he told me that one going into the cellar in the daytime lay there till night, then went upstairs, found a candle and lit it, took the key from his bedside, and went down and let all of the rest of the thieves in. The young man being there, said, It was well the maid and I was not at home, we should have been killed. No, says he, you would not have been killed, only bound.

TURNER—As the fellow told me.

HYDE, LORD CHIEF-JUSTICE—Did he say nothi touching Mr. Tryon's tooth?

COLE—He said, that the fellow putting his fin in his mouth to gag him, the old gentleman bit hi and in struggling to get out his finger, pulled out h tooth.

LORD CHIEF-JUSTICE HYDE—You are very perfect it, Mr. Turner, every way

TURNER—Ay, my lord, I examined him every way.

Peter Vanden-Anchor and *Chaplain* were the first people who entered the house after the robbery, and described the state in which they found it, and how they unbound Mr. Tryon.

The latter examined the servants as to their movements; Hill, the manservant, said that he and the maid had been at supper with Turner; but the maid said she had been at the house of one Chamberlin, a goldsmith.

Christmas described how he had been arrested at two in the morning, but had been discharged the next day.

Millington was at Mr. Tryon's house on Saturday evening, and finding Turner in custody, there was asked by him to intercede, in order that he might have his liberty to go about the jewels. Afterwards Turner, at his own house, sent his wife to Whitechapel or Tower-hill, where she would meet a man who would give her something. The wife brought the jewels to the Hoop Tavern, and from there they were taken to Mr. Tryon's, where they were examined, and none were found missing except a carcanet jewel.

Mannock had been told by Turner in Newgate that he was to have £500 for recovering the jewels and the money; he had recovered £500 and most of the jewels; if Sir Thomas had not secured him, he would now have them all; 'but Newgate was not the place to find them out.'

Sir T. Chamberlain was sworn and said, that hearing on Friday morning that Mr. Tryon had been robbed, he went to his house about three in the afternoon.

I found a great many people about him; sir T. Aleyn, lady Garret, and the countess of Carlisle was there. I told him, Mr. Tryon, I understand you have been robbed. Yes, says he, I have a great loss. I found him very staggering what he should do. I said, you must do like a man, or you will lose all: said I to sir T. Aleyn, if you do not help the poor man, being ancient, he will quite lose all. With that I went up above in the house, sir T. Aleyn was pleased to call me along with him, I was by at all the examinations; I did mistrust, and told Mr. Tryon in French, that no doubt but that gentleman was in the robbery: the reason was, that he being a frequent man in the house, knew everything: he was there continually, coming for jewels and things, and no man could do it but himself: that was my judgment, I told sir T. Aleyn assuredly he had a hand in it. My lord, the while we were examining the servants, word was brought in, that he was hearkening at the door, and in the yards, which made me more and more mistrust him. We heard that the maid had bee gadding abroad several times: I desired sir T. Aley to examine the maid how often she had supped a Turner's, she denied any time. The young man was examined, who said, they had been thirty or forty times feasted at col. Turner's. My lord, sir T. Aleyn has given you a just account, but he omitted one thing; he had a note sent him, which he had in his pocket, touching Mr. Turner's going about removal of the money into the Minories; and before Turner came in, he examined Mrs. Turner upon that note: says he, you were there too, and carried the money. Says she, she [*i.e.* Mrs. Fry] is a liar and a whore for saying so. Col. Turner came in and said,

why do you torment and vex my wife; and falling a cursing, and swearing and banning, said she was with child, you will make her miscarry, let her alone. Sir T. Aleyn examined him where he had been that day, and that night; he told me of many taverns, and going to see his horse, and I know not what, but we found him faltering. When the jewels were brought, there being two notes, sir T. Aleyn had one, and I another. The old gentleman was so joyful to see them again, that lying by him, and handling them, he pulled two or three down with his sleeve. Says Mr. Turner, come, I know what belongs to them better than any of you, and read them over, and I will shew them you. There wanting one jewel, says he, that rogue that has the other money hath this jewel, but I do not doubt but I shall find that out too. We put them all together, and sir T. Aleyn sealed them with his seal. For the bags of money, I saw them taken out, and one being sealed with a small seal, I put on both my spectacles, I found a lion rampant at top in one of the quarters; said I, this is a seal of some great person; and then a letter was brought down, and being compared, I was satisfied in my conscience they were alike. Sir T. Aleyn told me he must make a mittimus for him and his wife: said she, Do you send me of your errands? you shall send somebody else another time: I thought it would come to this. After much ranting and swearing (I thought the devil would have fetched him out of the room) he said, that he had better have kept the jewels, than to bring them forth, and to suffer for it himself or he had pawned his soul, and would not reveal it; and said, that Mr. Tryon had likewise engaged the like to him. For the £600 he offered his bond.

Hill recalled, said that Turner had been employed by Tryon about some mortgages; but he knew of no particulars.

Sir T. Aleyn—My lord, John Turner his son there, fled away from me when I came to the house in the Minories.

Bridgman, Lord Chief-Justice—Why did you fly away?

John Turner—I did not, sir.

Sir T. Aleyn—You did not fly! You ran away as fast as you could.

John Turner—My lord, a woman cried out 'Get away, and save your life!' and not knowing what the matter was, I went away.

Col. Turner—Poor boy! he thought thieves had been coming, and affrighted him.

Sir T. Aleyn—As to Ely Turner, I examined him upon the Sunday, the day after his father was committed; he would not confess the carrying of any money, and the maid swearing it, I committed him also.

Col. Turner—What's that of Ely? upon my soul, the boy carried none.

John Turner—I carried what was carried.

Col. Turner—My Lord, one son is as dear to me as the other, but if either be more, it must be my eldest; but yet I must say, it was John my eldest son that carried the money.

Sir T. Aleyn—My Lord, W. Turner was brought before me on Tuesday or Wednesday: sir R. Brown sent out his warrant for him, being a person of evil name, and likely to do such a fact; being taken, he was brought before me. My Lord, when Mr. Tryon looked upon him, he suspected him: I examined him

when he saw Col. Turner; he said not these three years, not to speak to him; and yet one at the Cock behind the Exchange said, this W. Turner staid for Col. Turner at his house two hours, that Col. Turner came in, paid for the pot of drink, and for ought he knew they both went together: thereupon I committed him. In the afternoon I ordered this person to send his servant; one came and made oath that he came in, and enquired for Col. Turner, asked for him, staid two hours for him; that they went both out of the house together: and this was on the Wednesday before the robbery.

William Dawes and *John Rouse*, his servant, corroborated what Sir T. Aleyn said as to William Turner.

Garret, *Watcher*, and *Culley* were called to prove that Turner had said that the money he took to Tryon's house was his own money, and that he was going to recover the jewels; 'if any man could say that he lost sixpence of his money, or six-penny worth of his jewels, he had two fellows in custody should answer for it.'

Pilkington corroborated what other witnesses had said as to the account Turner gave of the way in which the robbery was committed.

Tryon was recalled to identify William Turner as one of the two men whom he saw in his room, and as being the man who knocked out his tooth. The men were barefaced; one said to the other that it was only just past eleven o'clock.

Hyde, Lord Chief-Justice, then called on the prisoners to make their defence. He shortly recapitulated the case against them. William Turner and his father Col. Turner had met on the day before the robbery; the robbery must have been committed by some one who knew where the money and jewels were locked up, and Col. Turner had this knowledge. Early on the morning after the robbery Col. Turner, his wife and his son, moved a quantity of money out of their house, and asked a neighbour to take charge of it, falsely alleging that it belonged to a merchant who wanted to hide it. Afterwards they admitted that it was their own, but it appears that one of the bags in which it was, was sealed with the seal of the bishop of Chichester; and at the time of the burglary there was £600 in bags left with Mr. Tryon sealed with the same seal. William Turner, on people coming to his father's house, 'takes footing and leaps over the ditch to escape, which is a good just ground of suspicion that he is guilty of somewhat that he would not abide to answer.' Col. Turner and his wife show an exact knowledge of the way in which the crime was committed; 'Lay all this together, unless you shall answer it, all the world must conclude that you are the one that did this robbery.'

TURNER—I shall first prove that upon Thursday night, the time of that supposed burglary, that my-

self, my wife, and all my family, were in bed, fast asleep and innocent, not knowing anything of this business. This I shall prove, if not, let me hang and all my family.

Bridgman, Lord Chief-Justice—All this may be true, and yet this not to the purpose.

Turner—Then I cannot be guilty of the burglary.

Bridgman, Lord Chief-Justice—If you will lay and plot such a robbery, though you are not there, yet you are guilty of it; for it is ordinary that the main setter will not be present at such times, but will then be in bed, that people may take notice thereof. But satisfy the court by what means you came by this money and jewels, and then call your witnesses.

Turner in his defence said that his name was first mentioned by the man Hill, the manservant, who, when he came home late after the robbery, said that he and the maid had been at supper at his house, which was false. The fact was that the first he heard of the burglary was when the constable came to him and found him and all his family in bed. On being informed of what had taken place, he at once went to Tryon's house, and discussed the matter with him. Tryon suspected Christmas of being one of the men he had seen in his room, and he was fetched by a constable and afterwards sent to the Compter. Turner had prevented a robbery at the same place a year since, and he set to work to see if he could not recover the stolen property by the

same means that he had used on that occasion. He remembered one John Wild, and he went to look for him 'beyond the little postern between the two Tower Hills, near the Tower ditch.' On Friday night when he got to the house where he had found the persons he wanted the year before, he 'passed a fellow in black, in a large coat, such another man as this (pointing at one that stood by); he was in a black loose coat, and he was trimmed with ribband at his knee.' Thinking he must be one of the men he was in search of, either Wild or White, he seized him, and charged him with the burglary.

Said I, Mr. Tryon's house was robbed, and you are the person that I will lay flat felony to; you should have been one of them that were to rob him a year since, when Col. Ashton betrayed you all. He began with some hard oaths; be quiet, said I, I will call out; you are an undone man; I will lay this felony to you. I shifted my hold from his collar to the waistband of his breeches; I thought I had him more secure. Said I, Wild, do not deceive yourself, play not the fool; if you will save your life, let me see where those goods and monies are, else you will go to pot. We walked to the hill. I had fast hold of his breeches all this while; and yet I was afraid he might have some dagger, and stab me; Said I, be brief, you are alone, either resolve me or I will call out.

Thereupon Wild, having bound Turner by an oath that his life should be safe if he discovered the thing, whistled thrice, and so called White,

to whom he explained the situation, and sent him for the money. White went off and brought back £500 in two journeys, Turner holding Wild by his breeches all the time. This lasted four hours,[1] from midnight till four, during which time Wild gave Turner the account of how the burglary was committed, which he afterwards explained to the witnesses. When the £500 was all brought, Wild and White carried it to Turner's house, and threw it down on the floor of his parlour, promising to bring the rest of the money and the jewels the next day. White then objected that the men who had them would not come into the city, and it was arranged that they should bring them to Betty Fry's house in the Minories, an appointment being made to meet at the Blue Boar on the afternoon of the same day. Turner, his wife, and his son John (not Ely as Fry had sworn) took the five bags to Fry's house, and later on Turner went to Tryon's house, where he met Gurney ('Jesus! what a noise is here in the court. My Lord, I can hear but with one ear'), and told him that he would recover all his money except a few shillings. Tryon was delighted, promised him £500, and swore not to betray Wild and White. At eight o'clock on Saturday night,[2] he found Wild by

[1] Those statements were probably made as answers to questions; but the fact does not appear in the report.

[2] At this point either Turner got into a wild confusion as to

the Blue Boar in Tower Hill, and told him where the money was, and Wild said it must be moved to St. Catherine's by the water-side. Some of the money was carried there,[1] and as the rest was being moved Sir T. Aleyn came up, and John Turner ran away. Col. Turner told Sir T. Aleyn that the money was his, because Tryon had promised it to him, and he wanted to conceal the transaction. They all took the money to Mr. Tryon's house, where Tryon acknowledged his promise, and Sir T. Aleyn agreed that if the goods were restored, the old man's word should be made good.

More that that, he said he would make up the business, or he would smother it. My Lord, you have a great deal of patience, I am humbly bound to you, here is nothing but the naked truth, step by step, as I trod it. Afterwards[2] Wild came and said, All will be well. Said I, What have you done? Are you sure, saith he, the jewels nor nothing shall be

time, and nobody noticed it, or the report is wrong. Turner's story as it now stands is quite irreconcilable with the obviously true part of the evidence.

[1] Turner must have said, or intended to say, that he had agreed to pay Wild the £500 that White had given him the night before, as black-mail for the rest of the money and the jewels; but nothing of this appears in the report. It does not appear from the report how much money Tryon lost in all, nor how much was found at Fry's. It does not follow that evidence on the subject was not given at the trial.

[2] Turner was arrested by Cole about 3 P.M. Sir T. Aleyn does not say when he parted from him in the morning.

stirred? Said I, You see all is spoiled; Sir Thomas Aleyn is come where we had lodged the money, the thing is known, do they not hear of it? Yes they hear as well as you, and know what is done, and some have eyes upon you. Said I they will run away with the jewels. No you shall meet about three o'clock either by the Blue-Pig at Tower-Hill, or at Nag's-Head over against White-Chapel church. Nobody knows me but you, your wife, and your son who saw me this morning.

Coming home about Change time Stubbs told him it was said that he had been concerned in the robbery, and later he was arrested by Cole for his debt to Lyon and taken to the Hoop Tavern, where he was still in custody when a constable came with a warrant to take him before Sir. T. Aleyn. He asked Sir Thomas to allow him to go to fetch the jewels, but he was not allowed to go out of the liberties.

He then remembered that Wild had said he could send his wife, whom he described as

a full short woman about forty or fifty years old, she had a black scarf on; . . . I told Sir Thomas this story. My wife came to me publicly, I did not whisper with her.

Mrs. Turner—Nay, look you, husband ——

Turner—Pr'ythee Mall, sit down; you see my lord, my wife will interrupt me with nonsense. Pr'ythee sit thee down quickly, and do not put me out; I cannot hold women's tongues, nor your lordship neither.

BRIDGMAN, LORD CHIEF-JUSTICE—This is not a May-game.

TURNER—My Lord, it is a serious business, and I hope God will bless it. 'Pray,' said I, 'Mall go.'

His wife went as she was told.

She found this Nag's Head, she sat down, being somewhat fat and weary, poor dear! I have had 27 children by her, 15 sons and 12 daughters. Seven or eight times did this fellow round her——

MRS. TURNER—Let me give that relation——

TURNER—You cannot, it is as well; pr'ythee sit down, dear Mall, sit thee down good child, all will be well.

Mrs. Turner, in short, brought back the jewels which were given to Tryon, in Chamberlin's presence, and Turner offered to forego his £500, but was nevertheless committed by Sir T. Aleyn.

BRIDGMAN, LORD CHIEF-JUSTICE—Have you any witnesses to prove all this discourse passed between you and Wild?

TURNER—I have by, witnesses to prove I said this, that there was such discourses between us.

BRIDGMAN, LORD CHIEF-JUSTICE—No doubt of it; and so will many a man at Newgate frame such a story as this.

HYDE, LORD CHIEF-JUSTICE—You have told a long story about Wild, that you took him by the throat, and that you were alone: what weapons had you?

TURNER—None, my Lord.

BRIDGMAN, LORD CHIEF-JUSTICE—Had you a lanthorn with you?

TURNER—No, my Lord.

BRIDGMAN, LORD CHIEF-JUSTICE—What time of the night was it?

TURNER—Twelve o'clock, my lord.

BRIDGMAN, LORD CHIEF-JUSTICE—You staid till four, so they were four hours a-bringing of the money.

TURNER—Yes, my Lord.

HYDE, LORD CHIEF-JUSTICE—You took a man in the dark by the throat, that man that was guilty of such a thing, as when that you did let him go to call his companions to bring the money, brings fellows to you single; I would be glad to know, whether in this case they would not have knocked you on the head, and killed you?

TURNER—My lord, Wild had engaged his soul, and I my soul to him, that if I would not discover him, I should go away free.

BRIDGMAN—Great security indeed!

TURNER—I desire my maid may be called; pray ask Sir T. Aleyn what he hath done with my maid; he took her up with Sir R. Brown, and two marshal's men (pray gentlemen, make not a laughing business of this), Sir Thomas pray, where is my maid?

SIR T. ALEYN—I had this maid upon examination, I found cause of further examination, thereupon directed an officer to take her, and she is now in the garden.

Mosely the constable, the Marquis of Dorchester's servant, and Turner's maid were called to prove that Turner and his family were in bed at the time that the burglary took place; but proved nothing material, the maid in particular

becoming confused and contradicting herself several times.

Various witnesses were called to character, and *Sir T. Aleyn, Chamberlin, Millington,* and others were recalled, and all agreed that Turner, when he was in custody, asked to be allowed to go to fetch the jewels, but did not offer to arrest the thief.

Bridgman, Lord Chief-Justice—This is a notable piece of cunning; when he was moved by Alderman Smith and others, all this while he names no man; but now he was under an action, he would have them go with himself out of the Liberties, and yet saith never a word to take the man; he knew very well it was out of the Liberties. Truly, I think if Sir T. Aleyn had done it, I should not have taken him to be Sir T. Aleyn.

William Turner denied all knowledge of the charge.

John Turner, questioned by the judges, said that he had carried two bags of money from Fry's house to Wild on the Saturday morning; he made two journeys with one bag each time; he delivered them to Wild in the street at Tower-Ditch.

Hyde, Lord Chief-Justice, then summed up. He began by pointing out that as to Mrs. Turner,

though it appears all along that she had a hand in this business, yet nothing appears at all, but doing only that which her husband had directed; then by

law she cannot be accessory for committing of felony.

As to Ely, there was nothing against him.

Then the matter is to James, John, and William Turner; I hope, and I am sure you are nearer, and you take note of what hath been delivered; I have not your memories; you are young and no persons better; you are men of understanding, I need not repeat particulars to you.

He points out, very shortly, that John and William Turner had not proved that they were in bed at home all that night, and that even if they were in bed when the constable came to the house, that proved nothing, because the crime had then already been committed. As to Col. Turner,

you see when he comes the next day, he undertakes to find out the thieves, and that only upon a suspicion; that there being a purpose to rob Mr. Tryon a year before, he goes to the same place now, he found Wild out then. He had very good luck; that because he lodged there a year before, he must have the same lodging now: It is a likely matter that thieves, as Wild is, should keep their lodgings thus constantly. There he finds him, takes him by the throat, and there they were playing a while: There one comes, goes, and brings some part of the money. After all his, the next day he must take his word to come again and bring the jewels. Observe but this; after which time as the money was received yet by a token,

though he never saw the woman before, describing her a short fat woman, with a long black scarf, he must meet her, asked her what she wanted, and must give her jewels of that value: 'Tis one of the finest framed stories that I have heard, that this man should come to be thus privy after himself stood charged and the jewels brought for all this; and yet he must know nothing of it. You observe the evidences, and their circumstances themselves: The witnesses he called in point of reputation, that I must leave to you. I have been here many a fair time: Few men that come to be questioned, but shall have some come and say, he is a very honest man; I never knew any hurt by him: But is this anything against the evidence of the fact? But you have here the whole; I shall leave it to you.

Bridgman, Lord Chief-Justice, summed up even more shortly, mentioning a few of the absurdities of Turner's story. The jury withdrew for an hour, and then returned with a verdict of Guilty against Col. Turner, and Not Guilty against all the others.

On the 19th of January Col. Turner and William Turner made a confession as to their share in the crime. From this it appears that the burglary was planned entirely by Col. Turner, and was committed by him, his son William, one White, a solicitor, and an unnamed friend of White's. Col. Turner procured an impression of Tryon's door-key in wax, and had another key made to the pattern. By means of this

all four men entered Tryon's house about nine o'clock, and having bound and gagged Tryon, stole his keys, opened the doors of the counting-house and the warehouse, found the keys of his iron chest, and took the money and jewels out of it. How much money or how many bags they took does not appear, but everything was taken to a house in Duke's Place, from which Col. Turner fetched away the money and the jewels to his own house the next morning. The money was still in his house when it was searched by the constable and the marshal on Friday night. William Turner was to have £100, and White and his friend £20 a-piece for their pains. Neither Mrs. Turner, John Turner, or Ely Turner knew of the robbery, but they helped to move the money on Saturday morning. On being asked on Saturday morning where the jewels were, Col. Turner said he had given them to White at six o'clock that morning.

Col. Turner afterwards restored the carcanet, the only jewel which he had not restored before.

On the same day in the evening he was condemned to be hung.

On the occasion of his execution, two days afterwards, he made a dying speech of some length. After admitting the justice of his fate, and declaring that he died in peace with all the world, he said—

Truly it is my sins, and the greatness of my sins hath brought me hither, and the greatest sin that troubles me, and lies on me, is that sin which I was much addicted to, and that was the sin of profaneness, of blaspheming God, of taking his name in vain. I never heard any man or woman, or whatever they were, swear in my life but I did tremble for them, to hear them ; for keeping company with men of honour (they were men of quality, though that was an ill quality in them) was the occasion of it. I never kept company with any poor, base, inferior people, with any thief, or any suchlike base person in all my life, but fled from them and avoided them till this accident. As I was telling you, for that great sin of swearing ; keeping company with persons that did swear, I did get a habit of swearing, though I hated it and loathed it, when I observed it in myself, and yet, may be, did it again, forgetting presently, and not observing, being of a hasty nature.

He then goes on to say that his sons were innocent of the present matter, and asks the sheriff to procure their liberation from prison, which he promises to do if he can. He laments the present state of the world.

I must deal really with you, this nation is very full of sins, of crying sins, of sins that the land will suddenly mourn by God's hand ; I have every year expected the sweeping plague to come and take away two-thirds of the nation for the sins that lie upon us.

It is expected of him that he should clear himself from accusations that have been made against him. He knows nothing of having

£20 from Dr. Hewyt's wife to procure
don, his wife will soon receive a certifi-
her to show that this is true. He did
the king out of money when he was
he seas with him; for he was never out
ountry. He relates various sufferings
ndured on the royalist side during the
but being reminded by the sheriff that
ot a proper subject for a dying man to
about, he points out that Tryon got
his property, and then goes on rather
ntly:—

. Sheriffs, assure yourselves, so sure I am
eaven, I shall be there in glory, so sure had
(if I had not met with those two foolish
officers) have had his goods and money
ere had never had one word of this business
n. It was a sad fate, that these two fellows
ttle fear should be the occasion of my coming
God forgive them, Stubs and Lyon I mean,
villains, I have nobody to thank for my
them; and yet I do free them, and freely
m. Mr. Sheriffs, are you satisfied in this?
u have me say any more touching the fact?
ERIFF—It is satisfaction to us if you are
ourself.

then goes on to deny other charges
been made against him; particularly
s that a man of the same name who
is house was not poisoned by him, and
knows nothing of a 'glass jewel' which

the ordinary suggests that he delivered to the Countess of Devonshire in place of another. He expresses his faith in the Protestant church, and his belief in the chief tenets of the Christian religion, and denies that he had been drunk and abused the ordinary, swearing, and boasting that he had £5000, and could have a pardon when he pleased. On the contrary, he had acted as clerk in the prison chapel.

About eight or nine o'clock Justice Stringer came to me in Chancery-Lane, and two or three knights and persons of quality, eight or nine in all; they had one bottle of sack among them, of which I drank one little cup . . . and God forgive them that raised the scandal.

He then complains of the Hole where he was confined the night after the Sessions—

It is a most sad deplorable place; Hell itself, in comparison cannot be such a place; there is neither bench, stool nor stick for any person there; they lie like swine upon the ground, one upon another, howling and roaring . . . I would humbly beg that the Hole may be provided with some kind of boards like a court of guard, that men may lie down upon them in ease.

Jackson (the gaoler)—Seventeen out of nineteen made their escapes out of that Hole, they having only a form there.

Sir R. Ford—If I did think there were a reprieve to come for you I would be contented to spin out the time thus; but in good earnest I expect none; unless you had an apprehension you were not to die you

would not spin out the time thus, not thus run to many impertinences.

Turner then finished his speech, and after he had prayed a little the executioner fitted the rope round his neck—

Turner—What, dost thou mean to choke me? pray fellow, give me more rope; what a simple fellow is this! How long have you been executioner that you know not yet how to put the knot?

In the midst of his private ejaculations, offering to pull down the cap, he espied a gentlewoman at a window nigh, kissed his hand, said 'Your servant, Mistress.' . . . His cap being pulled down he gave the sign and the executioner turned him off.

The confluence of people from the gaol to the place of execution was very great, beyond the memory of any upon the like occasion.

During his imprisonment, and to the last breath of life, his carriage was very undaunted.

THE SUFFOLK WITCHES

THE SUFFOLK WITCHES[1]

At the Assizes held at Bury St. Edmunds, for the county of Suffolk, on the 10th of March

[1] Witchcraft, always an ecclesiastical offence, was first made a statutory crime by 33 Hen. VIII. (1541), which Hutchinson suggests was intended as 'a hank upon the reformers,' by reason of the part which mentioned the pulling down of crosses. This act was repealed on the accession of Edward VI., but was revived by 5 Eliz. c. 16 in a slightly different form. Hutchinson mentions five convictions under this statute between 1560 and 1597. A new act was passed in 1603, the first year of the reign of James I. Under it seventeen persons were condemned to death in Lancashire in 1634 on the evidence of one witness, who afterwards admitted his imposture. Their lives were saved by the judge who tried the case. In the eastern counties about fifty persons were executed in 1644 and 1645. Various other cases were tried throughout the seventeenth century, of which a list is given by Hutchinson, and the last conviction took place in 1712, at Hertford, but the prisoner was pardoned. The act of James was repealed in 1736, when it was enacted that no more prosecutions for witchcraft should take place, but that pretending to exercise witchcraft, and so forth, should be offences punishable on the same scale as other acts of petty cheating. Further information on the subject may be found in Hutchinson's *Essay on Witchcraft*; and an account of the very curious outburst of prosecutions for witchcraft in New England about the time of this trial, and, it is said, partly in consequence of it, may be found in Howell's *State Trials*,

1665, before Sir Matthew Hale,[1] Lord Chief-Baron of Exchequer, Rose Cullender and Amy

vol. vi. pp. 647-686. In those parts of the British Empire where there is a large population of negroes, it has been found necessary to make stringent laws against witchcraft, which are regarded by the persons most affected by them as something much more than a protection against mere cheats.

[1] Sir Matthew Hale (1609-1676) was the grandson of a Gloucestershire weaver. He was educated as a Puritan and entered Magdalen Hall, Oxford, in 1626. He here suddenly dropped his Puritan habits, and would have become a soldier in the Low Countries, but that, having to consult the learned Glanville as to legal proceedings taken against him which endangered his patrimony, he was persuaded to become a law student. He again resumed a quiet method of life, and owing to the slovenliness of his dress narrowly escaped being shipped to the West Indies by a press-gang. He was called in 1637, and already enjoying a considerable reputation at once acquired a lucrative practice. He devilled for Noy, but according to Campbell refused to follow him when he joined the Court party. He kept clear of politics at the beginning of the Long Parliament, though courted by both sides. He is said to have taken part in Strafford's defence; he certainly defended Laud. He took the Covenant in 1644, and sat in the Westminster Assembly of Divines. He procured honourable terms for the garrison of Oxford on the capture of that town. He took the engagement to be true to the Commonwealth in 1649, and continued to practise, often appearing for the defence in State prosecutions; particularly for the Duke of Hamilton after the battle of Worcester. He took a prominent part in the Commission appointed to reform the laws, which abolished feudal tenures and caused all legal proceedings to be conducted in English. He became a Justice of the Common Pleas in 1654, when he was occasionally brought into opposition to the government. At last he refused to try criminal causes; particularly that of Colonel Penruddock (see *post*, p. 59). He supported Cromwell against the sectaries.

Duny, widows, both of Leystoff, were indicted for bewitching Elizabeth and Ann Durent,

He was summoned to act as assessor to Cromwell's House of Lords; but refused to act as a judge under Richard Cromwell, though he sat in his Parliament. He sat for Gloucestershire in the Convention Parliament, and took an active part in the Restoration. He sat at the trial of the Regicides, though not at Vane's. On Bridgman becoming Chief-Justice of the Common Pleas in 1660, Hale succeeded him as Chief-Baron, his appointment being due, it is said, to Clarendon's scheme for having the Comprehension Bill, which he had drafted, defeated. He became Lord Chief-Justice in 1671, in succession to Kelyng. He has the reputation of being one of the greatest judges in English history. He settled satisfactorily all claims arising out of the rebuilding of London after the great fire; he found himself unable to help Bunyan, whom he considered to have been unjustly imprisoned, thereby, according to Campbell, being entitled to some of the credit attaching to the production of *The Pilgrim's Progress*. On the failure of his health he retired from the bench in 1676. It may be of interest to quote Campbell's opinion of his conduct of the present trial. 'I wish to God,' says that author, 'I could as successfully' (as he has done in Bunyan's case) 'defend the conduct of Sir Matthew Hale in a case to which I most reluctantly refer, but which I dare not, like Bishop Burnet, pass over unnoticed—I mean the famous trial before him, at Bury St. Edmunds, for witchcraft. I fostered a hope that I should have been able, by strict inquiry, to contradict, or mitigate, the hallucination under which he is generally supposed to have then laboured, and which has clouded his fame—even in some degree impairing the usefulness of that bright example of Christian piety which he has left for the edification of mankind. But I am much concerned to say, that a careful perusal of the proceedings and of the evidence shows that upon this occasion he was not only under the influence of the most vulgar credulity, but that he violated the plainest rules of justice, and that he really was the murderer of two

Jane Bocking, Susan Chandler, William Durent, Elizabeth and Deborah Pacy; and being arraigned they pleaded Not Guilty.

Three of the persons above-named, viz. Anne Durent, Susan Chandler, and Elizabeth Pacy were brought to Bury to the Assizes, and were in a reasonable good condition; but that morning they came into the hall to give instructions for the drawing of their bills of indictments, the three persons fell into strange and violent fits, shrieking out in a most sad manner, so that they

innocent women. . . . Had the miserable wretches, indicted for witchcraft before Sir Matthew Hale, pleaded guilty, or specifically confessed the acts of supernatural agency imputed to them, or if there had been witnesses who had given evidence, however improbable it might be, to substantiate the offence, I should hardly have regarded the Judge with less reverence because he pronounced sentence of death upon the unhappy victims of superstition, and sent them to the stake, or the gibbet. But they resolutely persisted in asserting their innocence, and there was not only no evidence against them which ought to have weighed in the mind of any reasonable man who believed in witchcraft, but during the trial the imposture practised by the prosecutors was detected and exposed.' 'Hale's motives were most laudable; but he furnishes a memorable instance of the mischiefs originating from superstition. He was afraid of an acquittal or of a pardon, lest countenance should be given to a disbelief in witchcraft, which he considered tantamount to a disbelief in Christianity. The following Sunday he wrote a "Meditation concerning the mercy of God in preserving us from the malice and power of Evil Angels," in which he refers, with extreme complacency, to the trial over which he had presided at Bury . . Edmunds.'

could not in any wise give any instructions in the court who were the cause of their distemper. And although they did after some certain space recover out of their fits, yet they were every one of them struck dumb, so that none of them could speak, neither at the time, nor during the Assizes, until the conviction of the supposed witches.

Dorothy Durent was the mother of William Durent, an infant. She swore that on the 10th of March 1669, she left her son William, who was then sucking, in charge of Amy Durent while she was away from home, giving her a penny for her trouble. She laid a great charge on Amy not to suckle the child, and on being asked why she did this, she explained that Amy had long gone under the reputation of a witch. Nevertheless, when she came back Amy told her that she had given the child suck;—

> whereupon the deponent was very angry with the said Amy for the same; at which the said Amy was much discontented, and used many high expressions and threatening speeches towards her; telling her, That she had as good to have done otherwise than to have found fault with her, and so departed out of her house; and that very night her son fell into strange fits of swooning and was held in such terrible manner, that she was much affrighted therewith, and so continued for divers weeks. And the said examinant farther said, that she being exceedingly troubled at her child's distemper, did go to a certain person

named Dr. Jacob, who lived at Yarmouth, who had the reputation in the country, to help children that were bewitched; who advised her to hang up the child's blanket in the chimney-corner all day, and at night when she put the child to bed, to put it into the said blanket, and if she found anything in it, she should not be afraid, but throw it into the fire. And this deponent did according to his direction, and at night when she took down the blanket with an intent to put her child therein, there fell out of the same a great toad, which ran up and down the hearth, and she having a young youth only with her in the house desired him to catch the toad and throw it into the fire, which the youth did accordingly and held it there with the tongs; and as soon as it was in the fire it made a great and horrible noise, and after a space there was a flashing in the fire like gunpowder, making a noise like the discharge of a pistol, and thereupon the toad was no more seen or heard. It was asked by the court, if that after the noise and flashing, there was not the substance of the toad to be seen to consume in the fire? And it was answered by the said Dorothy Durent, that after the flashing and noise, there was no more seen than if there had been none there. The next day there came a young woman, a kinswoman of the said Amy, and a neighbour of this deponent, and told this deponent, that her aunt (meaning the said Amy) was in a most lamentable condition, having her face all scorched with fire, and that she was sitting alone in her house in her smock without any fire. And thereupon this deponent went into the house of the said Amy Duny to see her, and found her in the same condition as was related to her; for her face, her legs, and thighs,

which this deponent saw, seemed very much scorched and burnt with fire, at which this deponent seemed much to wonder, and asked the said Amy how she came into that sad condition? and the said Amy replied, she might thank her for it, for that she this deponent was the cause of it, but that she should live to see some of her children dead, and she upon crutches. And this deponent farther saith, that after the burning of the said toad, her child recovered, and was well again, and was living at the time of the assizes. And this deponent farther saith, That about the 6th of March, 11 Car. II., her daughter Elizabeth Durent, being about the age of ten years, was taken in like manner as her first child was, and in her fits complained much of Amy Duny, and said, that she did appear to her, and afflict her in such manner as the former. And she this deponent going to the apothecary's for something for her said child, when she did return to her own house, she found the said Amy Duny there, and asked her what she did do there, and her answer was, That she came to see her child, and to give it some water. But she this deponent was very angry with her, and thrust her forth of her doors, and when she was out of doors, she said, You need not be so angry, for your child will not live long: and this was on a Saturday, and the child died on the Monday following. The cause of whose death, this deponent verily believeth was occasioned by the witchcraft of the said Amy Duny: for that the said Amy hath been long reputed to be a witch and a person of very evil behaviour, whose kindred and relations have been many of them accused of witchcraft, and some of them have been condemned. The said deponent further saith, that

not long after the death of her daughter Elizabeth Durent, she this deponent was taken with a lameness in both legs, from the knees down-ward, that she was fain to go upon crutches, and that she had no other use of them but only to bear a little upon them till she did remove her crutches, and so continued till the time of the Assizes that the Witch came to be tried, and was there upon her crutches; the Court asked her, That at the time she was taken with this lameness, if it were with her according to the custom of women? Her answer was, that it was so, and that she never had any stoppages of those things, but when she was with child. This is the substance of her Evidence to this Indictment.

There was one thing very remarkable, that after she had gone upon crutches for upwards of 3 years, and went upon them at the time of the Assizes in the Court when she gave her Evidence, and upon the jury's bringing in their verdict, by which the said Amy Duny was found Guilty, to the great admiration of all persons, the said Dorothy Durent was restored to the use of her limbs, and went home without making use of her crutches.

As concerning Elizabeth and Deborah Pacy, the first of the age of 11 years, the other of the age of 9 years or thereabouts: as to the elder, she was brought into the Court at the time of the instructions given to draw up the Indictments, and afterwards at the time of trial of the said prisoners, but could not speak one word all the time, and for the most part he remained as one wholly senseless, as one in a deep eep, and could move no part of her body, and all ae motion of life that appeared in her was, that as she lay upon cushions in the court upon her back, her

stomach and belly, by the drawing of her breath, would arise to a great height: and after the said Elizabeth had lain a long time on the table in the court, she came a little to herself and sat up, but could neither see nor speak, but was sensible of what was said to her, and after a while she laid her head on the bar of the court with a cushion under it, and her hand and her apron upon that, and there she lay a good space of time: and by the direction of the judge, Amy Duny was privately brought to Elizabeth Pacy, and she touched her hand: whereupon the child without so much as seeing her, for her eyes were closed all the while, suddenly leaped up, and catched Amy Duny by the hand, and afterwards by the face; and with her nails scratched her till blood came, and would by no means leave her till she was taken from her, and afterwards the child would still be pressing towards her, and making signs of anger conceived against her.

Deborah the younger daughter was held in such extreme manner, that her parents wholly despaired of her life, and therefore could not bring her to the Assizes.

The Evidence which was given concerning these two children was to this effect.

Samuel Pacy, a merchant of Leystoff aforesaid (a man who carried himself with much soberness during the trial, from whom proceeded no words either of passion or malice though his children were so greatly afflicted), sworn and examined, deposeth. That his younger daughter Deborah, upon Thursday the 10th of October last, was suddenly taken with a lameness in her legs, so that she could not stand, neither had she any

strength in her limbs to support her, and so she continued until the 17th day of the same month, which day being fair and sunshiny, the child desired to be carried on the east part of the house to be set upon the bank which looketh upon the sea; and whilst she was sitting there, Amy Duny came to this deponent's house to buy some herrings, but being denied she went away discontented, and presently returned again, and was denied, and likewise the third time and was denied as at first; and at her last going away, she went away grumbling; but what she said was not perfectly understood. But at the very same instant of time, the child was taken with most violent fits, feeling most extreme pains in her stomach, like the pricking of pins, and shrieking out in a most dreadful manner like unto a whelp; and not like unto a sensible creature. And in this extremity the child continued to the great grief of the parents until the 30th of the same month. During this time this deponent sent for one Dr. Feavor, a doctor of physic, to take his advice concerning his child's distemper; the Doctor being come, he saw the child in those fits but could not conjecture, as he then told this deponent, and afterwards affirmed in open court, at this trial, what might be the cause of the child's affliction. And this deponent farther saith, That by reason of the circumstances aforesaid, and in regard Amy Duny is a woman of ill-fame, and commonly reported to be a witch and sorceress, and for that the said child in her fits would cry out of Amy Duny as the cause of her malady, and that she did affright her with apparitions of her person (as the child in the intervals of her fits related) he this deponent did suspect the said Amy Duny for a witch, and charged her with the injury and wrong

to his child, and caused her to be set in the stocks on the 28th of the same October: and during the time of her continuance there, one Alice Letteridge and Jane Buxton demanding of her, as they also affirmed in court upon their oaths, what should be the reason of Mr. Pacy's child's distemper? telling her, That she was suspected to be the cause thereof; she replied, 'Mr. Pacy keeps a great stir about his child, but let him stay until he hath done as much by his children, as I have done by mine.' And being further examined, what she had done to her children? She answered, 'That she had been fain to open her child's mouth with a tap to give it victuals.' And the said deponent further deposeth, that within two days after speaking of the said words, being the 30th of October, the eldest daughter Elizabeth, fell into extreme fits, insomuch, that they could not open her mouth to give her breath, to preserve her life, without the help of a tap which they were enforced to use; and the younger child was in the like manner afflicted, so that they used the same also for her relief.

And further the said children being grievously afflicted would severally complain in their extremity, and also in the intervals, that Amy Duny (together with one other woman whose person and clothes they described) did thus afflict them, their apparitions appearing before them, to their great terror and affrightment: and sometimes they would cry out, saying, There stands Amy Duny, and there Rose Cullender, the other person troubling them.

Their fits were various, sometimes they would be lame on one side of their bodies, sometimes on the other: sometimes a soreness over their whole bodies, so as they could endure none to touch them: at other

es they would be restored to the perfect use of
r limbs, and deprived of their hearing; at other
es of their sight, at other times of their speech;
letimes by the space of one day, sometimes for
; and once they were wholly deprived of their
ech for eight days together and then restored to
ir speech again. At other times they would fall
swoonings, and upon the recovery to their speech
y would cough extremely, and bring up much
egm, and with the same crooked pins, and one
e a two-penny nail with a very broad head, which
s (amounting to forty or more) together with the
-penny nail, were produced in court, with the
rmation of the said deponent, that he was present
n the said nail was vomited up, and also most
he pins. Commonly at the end of every fit they
ld cast up a pin, and sometimes they would have
or five fits in one day.

n this manner the said children continued with
deponent for the space of two months, during
ch time in their intervals this deponent would
se them to read some chapters in the New Testa-
t.

Whereupon this deponent several times observed,
they would read till they came to the name of
d, or Jesus, or Christ; and then before they could
nounce either of the said words they would sud-
ly fall into their fits. But when they came to the
e of Satan, or devil, they would clap their fingers
n the book, crying out, This bites, but makes me
k right well.

t such time as they be recovered out of their fits
asioned as this deponent conceives upon their
ing of Lord, Jesus, or Christ), this deponent hath

demanded of them, what is the cause they cannot pronounce those words: they reply and say, that Amy Duny saith, I must not use that name.

And further, the said children after their fits were past, would tell, how that Amy Duny and Rose Cullender would appear before them holding their fists at them, threatening, that if they related either what they saw or heard, that they would torment them ten times more than ever they did before.

In their fits they would cry out, There stands Amy Duny or Rose Cullender; and sometimes in one place and sometimes in another running with great violence to the place where they fancied them to stand, striking at them as if they were present; they would appear to them sometimes spinning, and sometimes reeling, or in other postures, deriding or threatening them.

Afterwards the witness sent the children to the house of Margaret Arnold, his sister, at Yarmouth, to make trial whether the change of air might do them any good.

Margaret Arnold gave no credit to what was related to her when the children were committed to her care, 'conceiving that possibly the children might use some deceit in putting pins in their mouths themselves'; she therefore 'took all the pins out of their clothes, and sewed them all instead'; but 'notwithstanding all this care and circumspection of hers,' they raised at least thirty pins in her presence, and had most violent fits. They would cry out in

their fits, against Rose Cullender and Amy Duny, alleging that they saw them.

At some times the children (only) would see things run up and down the house in the appearance of mice; and one of them suddenly snapt one with the tongs, and threw it in the fire, and it screeched out like a rat.

At another time a little thing like a bee flew into the face of the younger child when she was out of doors, and would have gone into her mouth; the child ran screaming into the house and had a fit, and vomited up a two-penny nail with a broad head, which she said the bee had tried to put in her mouth.

The elder child said she saw a mouse, and crept under the table to look for it, and she found something, the witness did not see what it was, which she threw into the fire, when it flashed like gunpowder. At a time when she was speechless, but otherwise in good health, she appeared to chase something round the house, catch it, put it in her apron, and made as if she threw it in the fire, but the witness saw nothing. The child afterwards being restored to her speech said it was a duck. The younger child said that in her fits Amy Duny tempted her to drown herself, and to cut her throat, or otherwise destroy herself. For these reasons the witness believed that the children were bewitched, though she had not believed it at first.

Edmund Durent, the father of Ann Durent, swore that Rose Cullender came to his house in the previous November to buy some herrings of his wife, but being denied by her, returned in a discontented manner. On the first of December his daughter felt a great pain in her stomach, fell into swooning fits, and on her recovery declared that she had seen the apparition of Rose Cullender, who threatened to torment her. She had also vomited up pins, which were produced in court.

The maid was present in court, but could not speak to declare her knowledge, but fell into the most violent fit when she was brought before Rose Cullender.

Ann Baldwin corroborated the last witness, and added that Jane Bocking was so weak that she could not be brought to the Assizes.

Diana Bocking, the mother of Jane Bocking, swore that her daughter had formerly suffered from fits, but had recovered from them. On the first of February last, however, she had been attacked with fits which lasted till the witnesses came to the Assizes, vomiting pins daily, seven last Sunday. In her fits she would frequently complain of Rose Cullender and Amy Duny, saying that she saw them standing about the bed. At last she was stricken dumb for some days, and said when she recovered that Amy Duny would not suffer her to speak.

Mary Chandler, the mother of Susan Chandler, swore that she had examined the prisoners after they had been examined before Sir Edmund Bacon, on a charge of having bewitched Mr. Pacy's daughters, and that she had found certain monstrous growths on the body of Rose Cullender. She also said that Rose Cullender had appeared to her daughter, who was in service, one morning while she was washing, whereupon she was frightened and came at once and told her mother; and soon afterwards was attacked by fits, vomiting pins, like the others. She was at times dumb, and at times blind, and when she was brought into court, she was attacked anew, although she recovered her speech outside.

This was the sum and substance of the evidence which was given against the prisoners concerning the bewitching of the children before mentioned. At the hearing this evidence there were divers known persons as Mr. Serjeant Keeling,[1] Mr. Serjeant Earl, and Mr. Serjeant Barnard present. Mr. Serjeant Keeling seemed much unsatisfied with it, and thought it not sufficient to convict the prisoners: for admitting that the children were in truth bewitched, yet said he, it can never be applied to the prisoners, upon the imagination only of the parties afflicted; for if that might be allowed no person whatsoever can be in safety, for perhaps they might fancy another person, who might altogether be innocent in such matters.

[1] See *ante*, p. 127.

There was also *Dr. Brown*[1] of Norwich, a person of great knowledge; who after this evidence given, and upon view of three persons in Court, was desired to give his opinion, what he did conceive of them: and he was clearly of opinion, that the persons were

[1] Sir Thomas Browne (1605-1682) was the well-known author of *Religio Medici*, published in 1642; *Vulgar Errors*, published in 1646; and numerous other mystic, pseudo-scientific and philosophical works. Mr. Leslie Stephen (*Hours in a Library*, vol. ii. p. 11) writes of him: 'Obviously we shall find in Sir Thomas Browne no inexorably severe guide to truth; he will not too sternly reject the amusing because it happens to be slightly improbable, or doubt an authority because he sometimes sanctions a mass of absurd fables.' So he more or less believed in the griffin, the phœnix, and the dragon: he knew that the elephant had no joints, and was caught by cutting down the tree against which he leant in sleep; that the pelican pierced its breast for the good of its young; that storks refused to live except in republics or free states; and that men were struck dumb, literally dumb, by the sight of a wolf: he discusses what would have happened had Adam eaten the apple of the Tree of Life before that of the Tree of Knowledge; he discovers error in every recorded speech but one delivered before the Flood; he admits that the phœnix is mentioned in holy writers, and alluded to in Job and the Psalms, but nevertheless adduces eight reasons for not believing in his existence, of which one is that no one has seen one, another that in the Scriptures the word translated phœnix also means a palm-tree, another that he could neither enter the ark in a pair, nor increase and multiply. At the same time, he probably possessed a considerable knowledge of physical science, and holds a high, though peculiar, position in English literature. Evidently he was not a suitable witness in the present case, and his appearance as recorded above is far the most unamiable thing known of him; but it is possible that his neighbours did not take him more seriously as a trustworthy authority than do his modern critics.

bewitched; and said, That in Denmark there had been lately a great discovery of witches, who used the very same way of afflicting persons, by conveying pins into them, and crooked as these pins were, with needles and nails. And his opinion was, That the devil in such cases did work upon the bodies of men and women, upon a natural foundation (that is), to stir up, and excite such humours super-abounding in their bodies to a great excess, whereby he did in an extraordinary manner afflict them with such distempers as their bodies were most subject to, as particularly appeared in these children; for he conceived, that these swooning fits were natural, and nothing else, but only heightened to a great excess by the subtilty of the devil, co-operating with the malice of these which we term witches, at whose instance he doth these villanies.

Besides the particulars above mentioned touching the said persons bewitched, there were many other things objected against them for a further proof and manifestation that the said children were bewitched. As first, during the time of the trial, there were some experiments made with the persons afflicted, by bringing the persons to touch them; and it was observed, that when they were in the midst of their fits to all men's apprehension wholly deprived of all sense and understanding, closing their fists in such manner, as that the strongest man in court could not force them open; yet by the least touch of one of these supposed witches, Rose Cullender by name, they would suddenly shriek out opening their hands, which accident would not happen by the touch of any other person.

And lest they might privately see when they were

touched by the said Rose Cullender, they were blinded with their own aprons, and the touching took the same effect as before.

There was an ingenious person that objected, there might be a great fallacy in this experiment, and there ought not to be any stress put upon this to convict the parties, for the children might counterfeit this their distemper, and perceiving what was done to them they might in such manner suddenly alter the motion and gesture of their bodies, on purpose to induce persons to believe that they were not natural, but wrought strangely by the touch of the prisoners. Wherefore to avoid this scruple it was privately desired by the Judge, that the Lord Cornwallis, Sir Edmund Bacon, and Mr. Serjeant Keeling, and some other gentlemen there in court, would attend one of the distempered persons in the farther part of the Hall, whilst she was in her fits, and then to send for one of the witches, to try what would then happen, which they did accordingly: and Amy Duny was conveyed from the bar and brought to the maid: they put an apron before her eyes, and then one other person touched her hand, which produced the same effect as the touch of the witch did in the Court. Whereupon the gentlemen returned, openly protesting, that they did believe the whole transaction of this business was a mere imposture. This put the Court and all persons into a stand. But at length Mr. Pacy did declare, That possibly the maid might be deceived by a suspicion that the witch touched her when she did not. For he had observed divers times, that although they could not speak, but were deprived of the use of their tongues and limbs, that their understandings were perfect, for that they had related

divers things which have been when they were in their fits, after they had recovered out of them. This saying of Mr. Pacy was found to be true afterwards when his daughter was fully recovered (as she afterwards was) as shall in due time be related: For she was asked, whether she did hear and understand anything that was done and acted in the Court, during the time that she lay as one deprived of her understanding? and she said, She did: and by the opinions of some, this experiment (which others would have a fallacy) was rather a confirmation that the parties were really bewitched, than otherwise: for say they, it is not possible that any should counterfeit such distempers, being acquainted with such various circumstances, much less children; and for so long time, and yet undiscovered by their parents and relations: For no man can suppose that they should all conspire together (being out of several families, and as they affirm, no way related one to the other, and scarce of familiar acquaintance) to do an act of this nature whereby no benefit or advantage could redound to any of the parties, but a guilty conscience for perjuring themselves in taking the lives of two poor simple women away, and there appears no malice in the case. For the prisoners themselves did scarce so much as object it. Wherefore, said they, it is very evident that the parties were bewitched, and that when they apprehend or understand by any means, that the persons who have done them this wrong are near, or touch them; then their spirits being more than ordinarily moved with rage and anger at them being present, they do use more violent gestures of their bodies, and extend forth their hands, as desirous to lay hold upon them; which at other times not

having the same occasion, the instance there falls not out the same.

Additional witnesses were afterwards called to prove other acts of witchcraft by the prisoners.

John Soam, 'a yeoman, and a sufficient person,' deposed that one harvest he had three carts, and that as they were going into the field to load, one of them wrenched the window of Rose Cullender's house, whereupon she came out in a great rage, and threatened him. Afterwards the two carts that had not touched the house twice made the journey home loaded and back again, safely. But the cart that had touched the house was overturned twice or thrice that day after it was loaded; and as they brought it through the gate out of the field it stuck so fast that they had to cut down the gate-post, 'although they could not perceive that the cart did of either side touch the gate-posts.' And further,

after they had got it through the gate-way, they did with much difficulty get it home into the yard; but for all that they could do, they could not get the cart near unto the place where they should unload the corn, but were fain to unload it at a great distance from the place, and when they began to unload they found a great difficulty therein, it being so hard a labour that they were tired that first came; and when others came to assist them, their noses burst forth a bleeding; so they were fain to desist and leave it until the next morning, and then they unloaded it without any difficulty at all.

Robert Sherringham swore that about two years before, as he was passing along the street with his cart and horse, the axle-tree of his cart touched Rose Cullender's house, and broke down some part of it, at which she was very much displeased, threatening him that his horses should suffer for it;

and it so happened that all those horses, being four in number, died within a short time after; since that time he hath had great losses by the sudden dying of his other cattle; so soon as his sows pigged, the pigs would leap and caper, and immediately fall down and die. Also not long after he was taken with a lameness in his limbs that he could neither go nor stand for some days. After all this, he was very much vexed with great number of lice of an extraordinary bigness, and although he many times shifted himself, yet he was not anything the better, but would swarm again with them; so that in the conclusion he was forced to burn all his clothes, being two suits of apparel, and then was clean from them.

Richard Spencer, about the first of September last, heard Amy Duny say that the devil would not let her rest until she was revenged on the wife of one Cornelius Sandeswell.

Ann Sandeswell says that seven or eight years since,

she having bought a certain number of geese, meeting with Amy Duny, she told her, if she did not fetch her geese home they would all be destroyed; which in a few days after it came to pass.

Afterwards the said Amy became tenant to the witness's husband for a house, and Amy told the witness that if she did not look well to such a chimney in the house it would fall, whereupon the witness told her that it was a new one, and they parted without the witness attaching much importance to the matter;

but in a short time the chimney fell down according as the said Amy had said.

Also the witness once asked her brother, who was a fisherman, to send her a firkin of fish, which he did; and she hearing that the firkin was brought into Lowestofft Road, asked a boatman to bring it ashore with other goods which they had to bring;

and as she was going down to meet the boat-man to receive her fish, she desired the said Amy to go along with her to help her home with it; Amy replied she would go when she had it. And thereupon this deponent went to the shore without her, and demanded of the boat-man the firkin; they told they could not keep it in the boat from falling into the sea, and they thought it was gone to the devil, for they never saw the like before. And being demanded whether any other goods in the boat were likewise lost as well as hers? they answered not any.

This was the substance of the whole evidence given against the prisoners at the bar; who being demanded, what they had to say for themselves? they replied, nothing material to anything that was proved against them. Whereupon the judge, in giving his direction

to the jury, told them, that he would not repeat the evidence unto them, lest by so doing he should wrong the evidence on the one side or on the other.

Only this acquainted them, that they had two things to enquire after. First, Whether or no these children were bewitched? Secondly, Whether the prisoners at the bar were guilty of it?

That there were such creatures as witches he made no doubt at all; For first, the scriptures had affirmed so much. Secondly the wisdom of all nations had provided laws against such persons, which is an argument of their confidence of such a crime.

And such hath been the judgment of this kingdom, as appears by that act of parliament which hath provided punishments proportionable to the quality of the offence. And desired them, strictly to observe their evidence; and desired the great God of heaven to direct their hearts in this weighty thing they had in hand: For to condemn the innocent, and to let the guilty go free, were both an abomination to the Lord. With this short direction the jury departed from the bar, and within the space of half an hour returned, and brought them in both Guilty upon the several indictments, which were thirteen in number, whereupon they stood indicted.

This was upon Thursday in the afternoon, March 13, 1665. The next morning, the three children with their parents came to the Lord Chief-Baron Hales's lodging, who all of them spake perfectly, and were in as good health as ever they were; only Susan Chandler by reason of her very much affliction did look very thin and wan. And their friends were asked at what time they were restored thus to their speech and health? And Mr. Pacy did affirm, That

within less than half an hour after the witches were convicted they were all of them restored, and slept well that night, feeling no pain; only Susan Chandler felt a pain like pricking of pins in her stomach.

After, they were all of them brought down to the court, but Ann Durent was so fearful to behold them, that she desired she might not see them. The other two continued in the court, and they affirmed in the face of the country, and before the witches themselves, what before hath been deposed by their friends and relations; the prisoners not much contradicting them. In conclusion, the judge and all the court were fully satisfied with the verdict, and thereupon gave judgment against the witches that they should be hanged.

They were much urged to confess, but would not.

That morning we departed for Cambridge, but no reprieve was granted; And they were executed on Monday the 17th of March following, but they confessed nothing.

ALICE LISLE

ALICE LISLE

Alice Lisle was the daughter and heiress of Sir White Bechenshaw of Moyles Court, Ellingham, Hants, the scene of the principal facts referred to in this trial. The house is still standing. In 1630 she became the second wife of John Lisle; he was called to the bar, and became a bencher of the Middle Temple. He sat in the Long Parliament for Winchester, was one of the managers of Charles I.'s trial, and is said to have drawn up the form of the sentence. He became President of the High Court of Justice in 1654, sat in the Parliament of that year, and was appointed one of the Commissioners of the Exchequer. He appears to have been a consistent follower of Cromwell, and became a member of his House of Lords in 1657. He left England on the Restoration and fled to Lausanne, where he was murdered by an Irish Royalist in 1664. He sentenced John Penruddock, the father of the Colonel Penruddock of this trial, to death in 1655 for his participation in an unsuccessful rising against the Commonwealth in Wiltshire.

Alice Lisle, commonly called Lady Lisle, was tried for high treason at Winchester on 27th August 1685, before Lord Chief-Justice Jeffreys,[1]

[1] George Jeffreys, Baron Jeffreys of Wem (1648-1689), was born, of good family, near Wrexham in Denbighshire. He was educated at Shrewsbury, St. Paul's, Westminster, and Trinity College, Cambridge, where he was admitted in 1662. He first practised at the Old Bailey and the Middlesex Sessions, then held at Hicks's Hall. His learning in law was never extensive; but his natural abilities were very great, and, as far as one can judge from the reports, he practised cross-examination with much more real skill than most of his contemporaries. In fact, his cross-examinations from the bench, though scandalous and brutal to the last degree, seem to be the earliest instances we have of the art as now understood. He was appointed Common Serjeant in 1671, left the popular party and was made Solicitor-General to the Duke of York in 1677, and became Recorder of London in 1678. He did what he could to aid in the persecutions connected with the Popish Plot, and was made Chief-Justice of Chester in 1680. The House of Commons petitioned the King for his removal from office in the same year, for the part he had taken in opposing petitions for a Parliament; and he was reprimanded by the House and resigned his Recordership the same year, but was made Chairman of the Middlesex Sessions soon afterwards. He was the chief promoter of the *Quo Warranto* proceedings by which the City was deprived of its charter, and was engaged in the prosecution of Lord Russell. He was made Lord Chief-Justice in 1683. He presided at the trials of Algernon Sidney and Titus Oates. He was called to the House of Lords in 1685, and tried Richard Banks in the same year. On his return from the 'Bloody Assize' he was made Lord Chancellor. He suggested the revival of the Court of High Commission, and presided in it at the proceedings against Magdalen College. He advised the trial of the Seven Bishops, and narrowly missed being made Chancellor of

during his notorious 'Bloody Assize.' The charge against her was that knowing one George Hicks, a popular dissenting minister, to have been in Monmouth's army at Sedgemoor she entertained and concealed him in her house at Moyles Court. To convict her it was necessary to prove that Hicks had been in Monmouth's army, that she knew it, and that she entertained and concealed him. The prosecution was conducted by Pollexfen,[1] Mundy, and Corri-

the University of Oxford. On the flight of James II. he attempted to escape disguised as a sailor, but was seized in the Red Cow in Anchor and Hope Alley. He was removed to the Tower, where he died, and was buried in the next grave to Monmouth. The well-deserved detestation with which he was regarded makes it difficult to form any just estimate of his character. Where he had no temptation to do injustice he seems to have been a very good judge; but he had no hesitation in doing gross injustice by detestable methods, for wholly discreditable reasons. He is not seen quite at his worst in Alice Lisle's trial, because she was probably guilty and Dunne was a liar; nor is he seen at his best as a cross-examiner, because he had very good material to go on. He has been unfortunate in attracting the notice of popular writers such as Burnet, Campbell, and Macaulay, who have all found him a convenient subject for picturesque abuse; and a tendency to not too ingenious paradox diminishes the value of the work of a more recent biographer written from the opposite point of view.

[1] Appointed Attorney-General in 1689, and Chief-Justice of the Common Pleas in the same year. He was a prominent Whig, and at the time of this trial had appeared for the defence in several previous State Trials, among others that of Lord Russell, vol. ii. p. 6. He afterwards appeared for the defence in the case of the Seven Bishops, and was

ton, as far at least as it was not conducted by Jeffreys. Lady Lisle, according to the custom of the time, was not allowed counsel, though no doubt she had opportunities for receiving legal advice during the course of the trial. Hicks was afterwards tried, and hanged at Glastonbury.[1]

The first three witnesses were Pope, Fitzherbert, and Taylor, who were visited by Hicks and Monmouth's chaplain, apparently for more or less charitable purposes, when they were prisoners to Monmouth's Army in Sir Thomas Bridge's stables at Keynsham. Two of them also spoke to having seen him actually in Monmouth's Army.

James Dunne was then sworn.

Pollexfen—If your lordship please to observe, the times will fall out to be very material in this case: the battle at Kings-Edgemore was the sixth of July; three or four days afterwards was the taking of Monmouth, and my lord Grey at Ringwood; upon the 26th of July, ten or twelve days after the taking of Monmouth, was this message sent by Dunne to Mrs. Lisle: so we call Dunne to prove what message he carried upon the 26th, and what answer was returned; he will tell you that Tuesday was the time appointed for them to come, in the night, and all the other

well known as an adherent of the Prince of Orange at the Revolution. He died in 1691.

[1] See his dying speech, *State Trials*, xi. 312, in which he makes no reference to Lady Lisle.

circumstances. But withal, I must acquaint your lordship, that this fellow, Dunne, is a very unwilling witness; and therefore with submission to your lordship, we do humbly desire your lordship would please to examine him a little the more strictly.

LORD CHIEF-JUSTICE—You say well: Hark you, friend, I would take notice of something to you, by the way, and you would do well to mind what I say to you. According as the counsel that are here for the King seem to insinuate, you were employed as a messenger between these persons, one whereof has already been proved a notorious rebel, and the other is the prisoner at the bar, and your errand was to procure a reception at her house for him.

DUNNE—My lord, I did so.

LORD CHIEF-JUSTICE—Very well. Now mark what I say to you, friend: I would not by any means in the world endeavour to fright you into anything, or any ways tempt you to tell an untruth, but provoke you to tell the truth, and nothing but the truth, that is the business we come about here. Know, friend, there is no religion that any man can pretend to, can give a countenance to lying, or can dispense with telling the truth: Thou hast a precious immortal soul, and there is nothing in the world equal to it in value: There is no relation to thy mistress, if she be so; no relation to thy friend; nay, to thy father or thy child; nay, not all the temporal relations in the world can be equal to thy precious immortal soul. Consider that the Great God of Heaven and Earth, before whose tribunal thou, and we, and all persons are to stand at the last day, will call thee to an account for the rescinding his truth, and take vengeance of thee for every falshood thou tellest. I charge thee therefore,

as thou wilt answer it to the Great God, the judge of all the earth, that thou do not dare to waver one tittle from the truth, upon any account or pretence whatsoever: For though it were to save thy life, yet the value of thy precious and immortal soul is much greater, than that thou shouldst forfeit it for the saving of any the most precious outward blessing thou dost enjoy; for that God of Heaven may justly strike thee into eternal flames, and make thee drop into the bottomless lake of fire and brimstone, if thou offer to deviate the least from the truth, and nothing but the truth. According to the command of that oath that thou hast taken, tell us who employed you, when you were employed, and where? Who caused you to go on this message, and what the message was? For I tell thee God is not to be mocked, and thou canst not deceive him, though thou mayst us. But I assure you if I catch you prevaricating in any the least tittle (and perhaps I know more than you think I do; no, none of your saints can save your soul, nor shall they save your body neither) I will be sure to punish every variation from the truth that you are guilty of.

Now come and tell us, how you came to be employed upon such a message, what your errand was, and what was the issue and result of it?

Dunne then proceeds to depose that a man came to his house to desire him to go with a message to Lady Lisle; he came on a Friday, after the battle; he was a short black man, and promised a good reward. On Saturday Dunne went to Moyles Court, and Lady Lisle agreed to receive Hicks on Tuesday evening. He was

pressed as to whether she asked if he knew Hicks—

Lord Chief-Justice—Why dost thou think that she would entertain any one she had no knowledge of merely upon thy message? Mr. Dunne! Mr. Dunne! have a care, it may be more is known of this matter than you think for.[1]

Dunne—My Lord, I tell you the truth.

Lord Chief-Justice—Ay, to be sure you do, do not let me take you prevaricating!

Dunne—My Lord, I speak nothing but the truth.

Lord Chief-Justice—Well, I only bid you have a care, truth never wants a subterfuge, it always loves to appear naked, it needs no enamel, nor any covering; but lying and snivelling, and canting, and Hicksing, always appear in masquerade. Come, go on with your evidence.

Dunne then proceeds—he went home, arriving on Sunday, and gave his message to the man he first saw, and on Tuesday morning he, and a 'full fat black man,' and a 'thin black man,' came to his house at seven in the morning. Starting with two of them whom he had not seen before, but identified as Hicks and Nelthorp, at eleven, he took them by way of Deverel, Chilmark and Sutton to Salisbury Plain, where one Barter met them to guide them on, by Chalk, Rochesborne and Fordingbridge. This way he alleged, ap-

[1] This passage with several others proves that Jeffreys had got up the case beforehand pretty much as counsel would to-day. Cf. pp. 246, 259, 268, 273.

parently falsely, was a shorter way than he had taken on Saturday. Near Barton, however, they lost their way, and Dunne was sent down to the village to a man to tell him that one Hicks desired to speak to him. Who the man was, he hesitated to say.

Dunne—His name, my Lord, I cannot rightly tell for the present.

Lord Chief-Justice—Prithee recollect thyself: indeed thou canst tell us if thou wilt.

Dunne—My Lord, I can go to the house again if I were at liberty.

Lord Chief-Justice—I believe it, and so could I; but really neither you nor I can be spared at present; therefore prithee do us the kindness now to tell us his name.

Dunne—My Lord, I think his name was Fane.

Lord Chief-Justice—Thou sayest right, his name was Fane truly, thou seest I know something of the matter.[1]

Dunne brought Fane to Hicks, who asked him the way to Mrs. Lisle's.

Lord Chief-Justice—Now tell us what kind of man that was, that desired this of Mr. Fane?

Dunne—My Lord, it was the full fat black man.

Lord Chief-Justice—Now we have got him out, now we know which was Hicks, now go on.

On arriving at Mrs. Lisle's, Hicks and Nelthorp entered first in the dark; Dunne did not see

[1] Cf. p. 245.

them again till they were taken. Dunne was received by a young girl he did not know. He had 'a bit of cake and cheese from my own house, and that I eat': he did not see Mrs. Lisle.

So far, Jeffreys had been conducting an examination-in-chief, or what served the same purpose. Now the cross-examination begins—Dunne was forced to take the word of the first man who came to him that he would be paid. He was a baker, and would not bake on Sundays.

LORD CHIEF-JUSTICE—Alack-a-day! thou art precise in that, but thou canst travel on Sundays to lead rogues into lurking holes . . . but I assure thee thy bread is very light weight, it will scarce pass the balance here.

He left his horse in the stable, the other two left theirs outside the gate. He knew there were fugitives about the country; he did not ask the little man with the black beard who Hicks was. Hicks told him he was in debt. Did not the man who first came tell him Hicks was in debt and wanted to be concealed? He did. How came Dunne to be so impudent then as to tell such a lie?

DUNNE—I beg your pardon, my Lord.

LORD CHIEF-JUSTICE—You beg my pardon! That is not because you told me a lye, but because I found you in a lye. Come Sirrah, tell me the truth.

Where did Dunne sleep? in a chamber to

which the girl showed him, he saw no one else; he put up his horse himself and fed him on hay which was in the rack; the stable-door was latched; he pulled up the latch. He knew his way to the stable, because he had been there before—even though it was dark. Carpenter the bailiff gave his horse hay and brought a light to the stable after he had gone there. Besides Carpenter and the girl he saw no one. He did not drink in the house; he had last drunk at Barton.

Lord Chief-Justice—Now prithee tell me truly, where came Carpenter unto you? I must know the truth of that; I would not terrify thee to make thee say anything but the truth, but assure thyself I never met with a lying, sneaking, canting fellow, but I always treasured up vengeance for him; and therefore look to it, that thou dost not prevaricate with me, for be sure thou wilt come by the worst of it in the end.

Dunne—My Lord, I will tell the truth as near as I can.

Carpenter met him in the court when he was with Hicks and Nelthorp; no one else was there; Carpenter opened the stable-door.

Lord Chief-Justice—Why thou vile wretch, didst thou not tell me just now that thou pluckedst up the latch? Dost thou take the God of Heaven not to be a God of truth, and that He is not a witness of all thou sayest? Dost thou think because thou prevaricatest with the court here thou canst do so with

the God above who knows thy thoughts? And it is infinite mercy, that, for these falsehoods of thine, he does not immediately strike thee into hell! Jesus God! . . . Did you not tell me that you opened the latch yourself and that you saw nobody else but a girl? How durst you offer to tell such horrid lies in the presence of God and of a court of Justice? Answer me one question more. Did he pull down the hay or you?

Dunne did not pull down any hay; Carpenter took him into the house and to his room; but no one asked him to eat or drink; he did not know what became of the others' horses.

JEFFREYS—Did you tell Carpenter that the horses were there?

DUNNE—I did not tell him any such thing.

LORD CHIEF-JUSTICE—Thou art a strange, prevaricating, shuffling, sniveling lying rascal.

Barter was then called and sworn.

Having been duly threatened he deposed that Dunne came to his house on Saturday; he guided Dunne to Moyles Court; Dunne gave Carpenter a letter. Carpenter would not meddle with it; Dunne went in to my lady. He went into the kitchen where my lady came in, and she asked if he could make bricks; she went up to Dunne 'laughing with him and looked at me.' He asked Dunne what she laughed at. Dunne said she asked if he knew anything of 'the concern,' and he, Dunne, answered no, and that

this was what she laughed at. He was thereupon disturbed, and consulted Colonel Penruddock. It was agreed between them that he should guide Dunne and his friends across Salisbury Plain and that the Colonel should intercept them there; this plan, however, failed, and he left them when they insisted on going 'a private way over the fording bridge towards Moyles Court,' sending word, however, to Colonel Penruddock that they were at the house.

Dunne told him that the men he was to guide had 'half a score of thousands of pounds a year a piece.' 'He' (Dunne) 'told me he had a very fine booty for his part, and that he should never want money again, that I should be very well paid, and he gave me half-a-crown.'

Dunne is recalled, and denies that he gave Carpenter a letter or spoke to Barter of the wealth of the men he was to guide.

Lord Chief-Justice—Then one thing more, Did you not tell him that you told my lady when she asked whether he was acquainted with this concern, that he knew nothing of the business?

Dunne—My lord, I did tell him so.

Lord Chief-Justice—Did you so? Then you and I must have a little further discourse: Come now and tell us what business was that? and tell it us so, that a man may understand and believe that thou dost speak truth.

Dunne—Does your lordship ask what that business was?

Lord Chief-Justice—Yes, it is a plain question; what was that business that my lady asked thee, whether the other man knew; and then you answered her, that he did know nothing of it? (Then he paused awhile.)

Lord Chief-Justice—Remember, friend, thou art upon thy oath; and remember, withall that it is not thy life, but thy soul that is now in danger; therefore I require from thee a plain answer to a very plain question: what was that business my lady enquired after, whether the other fellow knew, and thou toldest her, he did not? [Dunne made no answer, but stood musing awhile.]

Lord Chief-Justice—He is studying and musing how he shall prevaricate; but thou hadst better tell the truth, friend; remember what thou hast said already; thou hast said that thou didst tell that man, that the lady asked you, whether he knew anything of the business, and thou toldest her, he did not? Now I would know what that business was. [Still he made no answer, but seemed to muse.]

Lord Chief-Justice—Look thee, if thou canst not comprehend what I mean, I will repeat it to thee again; for thou shalt see what countryman I am,[1] by my telling my story over twice; therefore I ask thee once again. Thou sayedst thy lady asked thee, whether he knew of the business: and thou toldest her he did not. Now let us know what that business was?

Dunne—I cannot mind it, my lord, what it was.

Lord Chief-Justice—But mind me, prithee: Thou didst tell that honest man there, that my lady Lisle

[1] He was born in Denbighshire.

asked thee, whether he knew anything of the business, and thou saidest no. What was that business?

DUNNE—That business that Barter did not know of?

LORD CHIEF-JUSTICE—Yes, that is the business; be ingenuous, tell the truth: Oh! how hard the truth is to come out of a lying Presbyterian knave. Prithee, friend, consider the oath that thou hast taken, and that thou art in the presence of a God that cannot endure a lie, nor whose holiness will not admit him to dispense with a lie; consider that that God is an infinite being of purity, holiness and truth; and it would be inconsistent with his being to dispense with the least untruth; and thou hast called him to witness, that thou wouldest testify the truth, the whole truth, and nothing but the truth. I charge thee, therefore, as thou wilt answer it to that God of truth, and that thou mayest be called to do, for aught I know, the very next minute, and there thou wilt not be able to palliate the truth; what was that business you and my lady spoke of? [Then he paused for half a quarter of an hour, and at last said—]

DUNNE—I cannot give an account of it, my lord.

Jeffreys continued for a long time to use and repeat every possible kind of threat without being able to draw anything from Dunne; at last

LORD CHIEF-JUSTICE—Why, prithee, dost thou think thou dost thy lady a kindness by this way of proceeding? Sure thou canst not think so; for such a sort of carriage were enough to convict her, if there were nothing else.

DUNNE—Truly, my lord, I do think not to do her any kindness at all.

LORD CHIEF-JUSTICE—Then prithee, let me persuade thee to have some kindness for thyself; look to thy own soul that is in great peril of everlasting ruin and destruction by these means; dost thou call this religion? It is a prodigious piece of religion! Come pray tell me what business it was that you talked of? You should not have asked me a question so often, but I would have given you a plain answer, though I were under the obligation of an oath as you are.

DUNNE—My lord, pray ask the question again once more and I will tell you.

LORD CHIEF-JUSTICE—I will so, and I will ask it you with all the calmness, and seriousness, and candour, that I can; if I know my own heart, it is not in my nature to desire the hurt of anybody, much less to delight in their eternal perdition; no, it is out of tender compassion to you, that I use all these words: I would have thee to have some regard to thy precious and immortal soul, which is more valuable than the whole world; reflect upon that scripture again which I mentioned before, which must be true because it is the words of him that is truth itself: what shall it profit a man to gain the whole world, and lose his own soul? or what shall a man give in exchange for his soul? If that soul of thine be taken away, what is the body fit for, but, like a putrid carcase, to be thrust into and covered with the dust with which it was made: therefore I ask you, with a great desire that thou mayest free thyself from so great a load of falshood and perjury, tell me what the business was you told the prisoner the other man Barter did not know.

DUNNE—My lord, I told her, he knew nothing of our coming there.

LORD CHIEF-JUSTICE—Nay, nay, that can never be it, for he came along with thee.

DUNNE—He did not know anything of my coming there till I met him on the way.

LORD CHIEF-JUSTICE—Prithee, mind my question; sure enough thou hadst told him whither thou wert going, or else he could not have been thy guide; so he must needs know of thy coming there: but what was the business thou told'st her, he did not know?

DUNNE—She asked me whether I did not know that Hicks was a Nonconformist?

LORD CHIEF-JUSTICE—Did my lady Lisle ask you that question?

DUNNE—Yes, my lord, I told her I did not.

LORD CHIEF-JUSTICE—But that is not my question; what was that business that he did not know?

DUNNE—It was the same thing; whether Mr. Hicks was a nonconformist.

LORD CHIEF-JUSTICE—That cannot be all; there must be something more in it.

DUNNE—Yes, my lord, it is all; I know nothing more.

LORD CHIEF-JUSTICE—What did she say to you when you told her, he did not know it?

DUNNE—She did not say anything, my lord.

LORD CHIEF-JUSTICE—Why, dost thou think, that after all this pains, that I have been at to get an answer to my question, that thou canst banter me with such sham stuff as this? Hold the candle to his face that we may see his brazen face.

DUNNE—My lord, I tell you the truth.

LORD CHIEF-JUSTICE—Did she ask thee whether that

man knew anything of a question she had asked thee, and that was only of being a nonconformist?

DUNNE—Yes my lord, that was all.

LORD CHIEF-JUSTICE—That is all nonsense; dost thou imagine that any man hereabouts is so weak as to believe thee?

DUNNE—My lord, I am so baulked, I do not know what I say myself.

Pollexfen here recalled Barter, who said that Dunne had told him that he had concealed the two men in his house for ten days, that it was the best job he had ever had in his life, and that he should never lack money again. All this Dunne denied having said; Barter, however, swore that he repeated it to Colonel Penruddock.

Colonel Penruddock, being called and sworn, deposed that Barter came to his house on Monday morning and said he had been with Dunne upon a journey to Lady Lisle's house to get entertainment for some people. They were going to meet him on Tuesday between nine and eleven on Salisbury Plain, and Colonel Penruddock could take them there. He sent a servant to take them there, who missed them; and accordingly went with soldiers to Lady Lisle's house the next day, searched it, found Hicks and Dunne in the Malt House, the latter having 'covered himself up with some sort of stuff there,' and Nelthorp 'in a hole by the chimney.'

LORD CHIEF-JUSTICE—Dunne, how came you to hide yourself in the malt-house?

Dunne—When I heard the stir and bustle, I went through the chamber where I lay, and came into that room where I was taken.

Lord Chief-Justice—When thou heardst a stir and a bustle, why wert thou afraid of anything?

Dunne—My lord, I was frightened at the noise.

Lord Chief-Justice—Prithee, what needst thou be afraid for, thou didst not know Hicks nor Nelthorp? and my lady only asked thee whether Hicks were a Nonconformist parson. Thou art a very innocent soul, and surely need'st no occasion to be afraid.

Colonel Penruddock did not remember Barter telling him what he said he did, but Barter said he apprehended the two men to be rebels, and 'that Dunne told him as much.'

Lord Chief-Justice—What do you say to that, Dunne? It seems you told Barter that you apprehended them to be rebels?

Dunne—I apprehend them for rebels, my Lord?

Lord Chief-Justice—No, no, you did not apprehend them for rebels, but you hid them for rebels. But did you say to Barter that you took them to be rebels?

Dunne—I take them to be rebels!

Lord Chief-Justice—You blockhead, I ask you, did you tell him so?

Dunne—I tell Barter so?

Lord Chief-Justice—Ay, is not that a plain question?

Dunne—I am quite cluttered out of my senses; I do not know that I say (A candle being still held nearer his nose).

Lord Chief-Justice—But to tell the truth would rob thee of none of thy senses, if ever thou hadst any; but it should seem that neither thou, nor thy mistress the prisoner had any, for she knew nothing of it neither, though she had sent for them thither.

Colonel Penruddock continuing, said he had some difficulty in getting admittance to Lady Lisle's house; he did not see her till after he had brought out Hicks and Dunne; she denied that anybody else was there, but he searched and found Nelthorp.

Lord Chief-Justice—But she denied it [Nelthorp's being there] first it seems?

Lisle—My lord, I hope I shall not be condemned without being heard.

Lord Chief-Justice—No, God forbid, Mrs. Lisle. That was a sort of practice in your husband's time, you know very well what I mean; but God be thanked it is not so now; the king's courts of law never condemn without hearing

Donning being called and sworn, deposed to finding Dunne and Hicks in the Malt-house, the former in a little hole 'where he had taken some stuff or other to cover him.'

Mrs. Carpenter, the bailiff's wife, spoke to serving the men who came on Tuesday with supper in the chamber where they lay, and to Mrs. Lisle's presence there. *Carpenter* spoke to Dunne's first arrival, when he asked for entertainment for Hicks and another whom he did not know.

After the Carpenters had finished it appeared that Dunne had given way.

Mr. Rumsey—Now, my lord, Dunne says he will tell all, whether it makes for him or against him.

Lord Chief-Justice—Let him but tell the truth, and I shall be satisfied.

Dunne—Sure my lord, I never entertained these men a night in my house in my life; but this Hicks sent that man to me to go to my lady Lisle's, to know whether she would please to entertain him; and when I came my lady asked me whether he had been in the army or no? I told her I could not tell, I did not know that he was. She then asked me if he had nobody else with him? I told her I believed there was. This is the very truth of it, my lord. I asked her might the men be entertained? She said they might. So when we came to my lady Lisle's on the Tuesday night, somebody took the two horses, I cannot tell who if I were to die; the two went in; and after I had set up my horse, I went in along with Carpenter up into the chamber to my lady, and to this Hicks and Nelthorp; and when I came there, I heard my lady bid them welcome to her house; and Mr. Carpenter or the maid, I cannot tell which, brought in the supper, and set it on the table.

Lord Chief-Justice—And didst thou eat or drink with them in the room or not?

Dunne—My lord, I will tell everything that I know; I confess I did both eat and drink there in the room.

Lord Chief-Justice—I pity thee with all my soul and pray to God Almighty for thee, to forgive thee, and to the Blessed Jesus to mediate for thee; and

I pray for thee with as much earnestness, as I would for my own soul; and I beg of thee once more, as thou regardest thy own eternal welfare, to tell all the truth.

DUNNE—My lord, I did never know these men were in the army when I carried the message to my lady Lisle's, nor never did entertain them in my house in my life time, so much as one night.

LORD CHIEF-JUSTICE—Prithee, I do not ask thee what thou didst not, but what thou didst?

DUNNE—My lord, I will tell all I know.

LORD CHIEF-JUSTICE—What discourse had you that night at the table in the room?

DUNNE—I cannot tell what discourse truly, my lord, there was.

LORD CHIEF-JUSTICE—Was there nothing of coming beyond seas, who came from thence, and how they came? Come I would have it rather the effect of thy own ingenuity, than lead thee by any questions I can propound; come tell us what was the discourse?

DUNNE—I do not remember all the discourse.

LORD CHIEF-JUSTICE—Prithee let me ask thee one question, and answer me it fairly; didst thou hear Nelthorp's name named in the room?

DUNNE—My lord, I cannot tell whether he were called Nelthorp, but it was either Crofts or Nelthorp, I am sure one of them.

LORD CHIEF-JUSTICE—Prithee, be ingenious, and let us have the truth on it.

DUNNE—My lord, I am ingenious and will be so.

LORD CHIEF-JUSTICE—I will assure you Nelthorp told me all the story before I came out of town.[1]

[1] Cf. p. 245.

DUNNE—I think, my lord, he was called Nelthorp in the room, and there was some discourse about him.

LORD CHIEF-JUSTICE—Ay, there was unquestionably, and I know thou wert by, and that made me the more concerned to press upon thee the danger of forswearing thyself.

DUNNE—My lady asked Hicks who that gentleman was, and he said it was Nelthorp, as I remember.

LORD CHIEF-JUSTICE—Very well, and upon that discourse with Nelthorp, which I had in town, did I give particular direction, that the outlawry of Nelthorp should be brought down hither, for he told me particularly of all the passages and discourses of his being beyond sea: I would not mention any such thing as any piece of evidence to influence this case, but I could not but tremble to think, after what I knew, that any one should dare so much to prevaricate with God and man, as to tell such horrid lyes in the face of a Court.

DUNNE—What does your lordship ask me?

LORD CHIEF-JUSTICE—Come I will ask thee a plain question; was there no discourse there about the battle, and of their being in the army?

DUNNE—There was some such discourse, my lord.

LORD CHIEF-JUSTICE—Ay, prithee now tell us what that discourse was.

DUNNE—My lord, I will tell you, when I have recollected it, if you will give me time till to-morrow morning.

LORD CHIEF-JUSTICE—Nay, but we cannot stay so long, our business must be dispatched now; but I would have all people consider, what a reason there is, that they should be pressed to join with me in hearty prayers to Almighty God, that this sin of lying

and perjury may never be laid at thy door. What say'st thou? Prithee, tell us what the discourse was?

DUNNE—My lord, they did talk of fighting, but I cannot exactly tell what the discourse was.

LORD CHIEF-JUSTICE—And thou saidst thou didst eat and drink with them in the same room?

DUNNE—I did so, my lord, I confess it.

LORD CHIEF-JUSTICE—And it was not a little girl that lighted thee to bed, or conducted thee in?

DUNNE—It was not a little girl.

LORD CHIEF-JUSTICE—Who was it then?

DUNNE—It was Mr. Carpenter, my lord.

LORD CHIEF-JUSTICE—And why didst thou tell us so many lyes then? Jesu God! that we should live to see any such creatures among mankind, nay, and among us too, to the shame and reproach be it spoken of our nation and religion: is this that that is called the Protestant religion, a thing so much boasted of, and pretended to? we have heard a great deal of clamour against Popery and dispensations; what dispensations, pray, does the Protestant religion give for such practices as these? I pity thee with all my soul, and pray for thee, but it cannot but make all mankind to tremble, and be filled with horror, that such a wretched creature should live upon the earth: Prithee be free, and tell us what discourse there was.

DUNNE—My lord, they did talk of fighting but I cannot remember what it was.

LORD CHIEF-JUSTICE—Did you lie with them?

DUNNE—No, my lord, I did not.

LORD CHIEF-JUSTICE—Well I see thou wilt answer nothing ingenuously, therefore I will trouble myself no more with thee: go on with your evidence, gentlemen.

Mr. Jennings—My lord, we have done, we have no more witnesses.

Mrs. Lisle is then called upon for her defence, and proceeds to say that had she been tried in London Lady Abergavenny and other persons of quality could have testified with what detestation she had spoken of the rebellion, and that she had been in London till Monmouth was beheaded. She had denied Nelthorp's being in the house because of her fear of the soldiers,

who were very rude and violent and could not be restrained by their officers from robbery and plundering my house. And I beseech your lordship to make that construction of it; and I humbly beg of your lordship not to harbour an ill opinion of me, because of those false reports that go about of me relating to my carriage towards the old king, that I was any ways consenting to the death of King Charles I., for, my lord, that is as false as God is true; my lord, I was not out of my chambers all the day in which that king was beheaded, and I believe I shed more tears for him than any woman then living did; and this the late Countess of Monmouth, and my lady Marlborough, and my lord chancellor Hyde, if they were alive, and twenty persons of the most eminent quality could bear witness for me.

She did not know Nelthorp, and only took Hicks because he was a nonconformist minister, and there being warrants out against all such, she was willing to shelter him from them.

She then called *Creed*, who said that he heard

Nelthorp say that Lady Lisle did not know of his coming, and did not know his name, and that he did not tell his name till he was taken.

Lady Lisle then concluded her defence by fresh protestations of her loyalty to the King.

But though I could not fight for him myself, my son did, he was actually in arms on the King's side in this business. I instructed him always in loyalty, and sent him thither; it was I that bred him up to fight for the King.

Jeffreys begins his summing up by reminding the jury of the terms of their oath and reminding them of their duty—

That not any thing can move you either to compassion of the prisoner on the one hand, or her allegations and protestations of innocence; nor, on the other hand, to be influenced by anything that comes from the court, or is insinuated by the learned counsel at the bar, but that you will entirely consider what evidence has been given to you, and being guided by that evidence alone, you that are judges of the fact will let us know the truth of that fact, by a sincere and upright verdict.

He goes on to dwell on the wickedness of Monmouth's rebellion, and the mercy of God as shown in the restoration of Charles II. and

the best of religions, the true Protestant reformed religion, the religion established by law, which now is, and I hope will ever remain established among

us, as now professed and practised in the Church of England.

After dwelling on this and on the blessing of having asked so steadfast a supporter of the Church of England as James II., he proceeds to discuss the actual facts of the case.

This person, Mrs. Lisle, the prisoner at the bar, she is accused for receiving and harbouring this person: and gentlemen, I must tell you for law, of which we are the judges, and not you, That if any person be in actual rebellion against the King and another person (who really and actually was not in rebellion) does receive, harbour, comfort and conceal him that was such, a receiver is as much a traitor as he who indeed bore arms: We are bound by our oaths and consciences, to deliver and declare to you what is law; and you are bound by your oaths and consciences to deliver and declare to us, by your verdict, the truth of the fact.

Gentlemen, that he [Hicks] was there in rebellion, is undeniably and unquestionably proved: That there are sufficient testimonies to satisfy you that this woman did receive and harbour him, is that which is left to your consideration; and, for that the proofs lie thus: And truly I am sorry to have occasion for repeating the circumstances of the proof; I mean the great art that has been used to conceal it; how difficult a thing it was to come at it; what time has been spent in endeavouring to find out truth in a fellow, that in defiance of all admonition, threats and persuasion, would prevaricate and shuffle to conceal that truth; nay lie, and forswear himself to contradict it. But out of pure Christian charity, as I told him, so

I tell you I do heartily pray, and all good Christians I hope will join with me in it, to the God of infinite mercy that He would have mercy upon his soul, upon which he hath contracted so great a guilt by the impudence of his behaviour and pertinacious obstinacy in those falsehoods which he hath made use of in this case.

Gentlemen, I would willingly forget all his prevarications, but I must take notice of them in short, to come to the truth. First he says, he came upon an errand from a man, he knows not whom, to my Lady Lisle's house; and thither he is brought by one Barter; and when he comes there he tells her, he comes in the name of one Hicks, who desired to be entertained there. Then she asks the question, whether Hicks had been in the army; and he told her he did not know; and he swears now he did not: But at last it came out that it was to entertain Hicks and another person; but it should seem that other persons were not named; and Barter tells you that Hicks and another person (who afterwards proved to be Nelthorp) are promised to be entertained, and ordered to come in the evening. But not to go backward and forward, as he has done in his evidence, denying what he afterwards acknowledged that he saw anybody besides a little girl; that he pulled down the hay out of the rack for his horse; that he eat anything but cake and cheese that he brought with him from home; that he was ever made to drink, or to eat or drink in the house, or ever meddled or made with any body in the house. At last we are told that Carpenter met with him; and came out with a lanthorn and candle, took care of his horse, carried him into the room where Hicks and Nelthorp were, and

the prisoner at the bar, Mrs. Lisle; there they all supped together; there they fell into discourse; there Nelthorp's name was named, and they talked of being in the army, and of the fight; and so it is all come out, and makes a full and positive evidence.

But then suppose there was no more than the other evidence, and that the fellow remain in an hard-hearted obstinacy, then you are to consider the circumstances even from his first evidence, that this was after the rebellion was all over; for it seems during the rebellion she was in London, and it was notoriously known that the King's forces were in pursuit of the rebels, and this without any positive proof would be in itself a sufficient testimony to convice any considerate person, that she was to conceal those she ought not to conceal; because she directed the particular time wherein they should come, and that was at night; and no prudent person would receive strangers in the night, and give such directions in such a season without some extraordinary ground for it. When they came there, she provided a supper for them; and you see what care is taken, that the woman only is permitted to bring that supper to the door, and the husband must set it on the table; nobody is permitted to attend there but he. Works of darkness always desire to be in the dark; works of rebellion and such like, are never done in the light.

But then comes that honest fellow Barter (I call him so because he appears so to be, and he ought to be remembered with a great remark for his honesty), he tells you, he conducted him to the house, and what discourse passed there in his hearing. The prisoner asked him what countryman he was, and whether he was a brick-maker, and promised him so many acres

of land in Carolina. The fellow upon observation and consideration, found himself under a great load, could not eat or sleep quietly, as men that have honest minds are uneasy under such things; falshood and treason, and hypocrisy are a heavy load; and blessed be God, things were by this means discovered: for he goes and tells Col. Penruddock; and withal Dunne swears to Barter, it was the bravest job he had ever had in his life; whereas in the beginning of his story, he would have told you a strange story of a black beard and I do not know what, and that he got not one groat by it; that he gave the man 2s. 6d. out o his own pocket, and was so industrious as when he knew the way no farther, that he would hire one himself to shew him the way, and all for nothing but only for the kindness he had for a black beard.

Besides, gentlemen, I am sorry to remember something that dropped even from the gentlewoman herself; she pretends to religion and loyalty very much, how greatly she wept at the death of King Charles the Martyr, and owns her great obligations to the late King, and his royal brother; that she had not had a being, nor any thing to maintain it for twenty years last past but from their bounty, and yet no sooner is one in the grave, but she forgets all gratitude and entertains those that were rebels against his royal successor; I will not say what hand her husband had in the death of that blessed martyr, she has enough to answer for of her own guilt; and I must confess it ought not one way or other to make any ingredient into this case what she was in former times, and I told a relation of hers, a Mr. Tipping by name, that came to me, last night, to desire that she might not lie under some imputations that were gone

abroad of her that she rejoiced at the death of King Charles I., nor that any false report of that nature might influence the Court or jury against her, that it should not;—be the thing true or false, it is of no weight one way or other in the trial of this case, nor is she to be accountable for it.

But I must remember you of one particular, that is plain upon this evidence, and is of very great moment in this case; that after all these private messages and directions given to come by night, and the kind reception they met with when they came, and after all this care to lodge them and feed them, when Col. Penruddock, after the discovery made by Barter, came to search her house, then she had nobody in it truly, which is an aggravation of the offence testified by col. Penruddock himself, whose father likewise was a martyr, and died for his fidelity to the crown; and who was the judge of that father we all very well know.[1]

God Almighty is a just God, and it may be worth considering (especially by her) how God has been pleased to make use of him as the instrument in this business; and she would do likewise well to consider the finger of God in working upon the heart of that man Barter, who was employed in all this affair, and that all the truth has been told by Nelthorp,[2] that blackest of villains Nelthorp, that would have murdered the King and his royal brother; that he was one of those barbarous, malicious assassinates in that black conspiracy, and outlawed, should be harboured, by one that pretends a love for the royal

[1] *Ante*, p. 239.

[2] Cf. *ante*, p. 245.

family, and entertained and discoursed with at night about being in the army; yet that he and that other villain Hicks, who pretends to religion, and to be a preacher of the gospel, but is found in rebellion, and in the company of traitors, should be denied the next morning.

I hope they themselves are all by this time satisfied truth will come out, and I hope you will not be deceived by any specious pretences. Our forefathers have been deluded, but the deception I hope is now at an end. And I must needs say if all these witnesses that have freely discovered their knowledge, joined to that truth which is at length drawn from that Dunne, be worthy of any credit, it is as plain a proof as can be given, and as evident as the sun at noon day.

Gentlemen, upon your consciences be it; the preservation of the government, the life of the King, the safety and honour of our religion, and the discharge of our consciences as loyal men, good christians, and faithful subjects, are at stake; neither her age or her sex are to move you who have nothing else to consider but the evidence of the fact you are to try. I charge you therefore, as you will answer it at the bar of the last judgment, where you and we must all appear, deliver your verdict according to conscience and truth.

With that Great God the impartial judge there is no such thing as respect of persons, and in our discharge of our duty in courts of justice, he has enjoined us his creatures, that we must have no such thing as a friend in the administration of justice, all our friendship must be to truth, and our care to preserve that inviolate.

LISLE—My lord, if your lordship please——

LORD CHIEF-JUSTICE—Mistress, you have had your turn, you cannot now be heard any more after the jury is charged.

MRS. LISLE—My lord, I did not know Nelthorp, I declare it, before he was taken.

LORD CHIEF-JUSTICE—You are not indicted for Nelthorp, but we are not to enter into dialogues now, the jury must consider of it.

JURY-MAN—Pray my lord, some of us desire to know of your lordship in point of law, whether it be the same thing, and equally treason, in receiving him before he was convicted of treason, as if it had been after.

LORD CHIEF-JUSTICE—It is all the same, of that certainly can be no doubt; for if in case this Hicks had been wounded in the rebels' army, and had come to her house and there been entertained but had died there of his wounds, and so could never have been convicted, she had been nevertheless a traitor.[1]

Then the jury withdrew, and staying out a while

[1] Lady Lisle's attainder was afterwards reversed on the ground that this ruling is wrong; it does not represent the present law (see Stephen's *Digest*, art. 62), which, however, rests on a subsequent dictum of Hale's followed by Foster, due probably to his recollection of this case. Sir James Stephen suggests that as a matter of mere law Jeffreys may have been right (*Hist. Crim. Law*, vol. ii. p. 231); he also says: 'I think that this is another of the numerous instances in which there really was no definite law at all, and in which the fact that a particular course was taken by a cruel man for a bad purpose has been regarded as a proof that the course taken was illegal.'—(*Ibid.*, vol. i. p. 413).

the Lord Jeffries expressed a great deal of impatience, and said that he wondered in so plain a case they would go from the bar, and would have sent for them with an intimation, that if they did not come quickly, he would adjourn, and let them lie by it all night; but about after half-an-hour's stay, the Jury returned, and the foreman addressed himself to the Court thus:

FOREMAN—My lord, we have one thing to beg of your lordship some directions in, before we can give our verdict in this case; We have some doubt upon us whether there be sufficient proof that she knew Hicks to have been in the army.

LORD CHIEF-JUSTICE—There is as full proof as proof can be; but you are judges of the proof, for my part I thought there was no difficulty in it.

FOREMAN—My lord, we are in some doubt of it.

LORD CHIEF-JUSTICE—I cannot help your doubts, was there not proved a discourse of the battle and of the army at supper time?

FOREMAN—But my lord, we are not satisfied that she had notice that Hicks was in the army.

LORD CHIEF-JUSTICE—I cannot tell what would satisfy you; Did she not enquire of Dunne, whether Hicks had been in the army? and when he told her he did not know, she did not say she would refuse him if he had been there, but ordered him to come by night, by which it is evident she suspected it, and when he and Nelthorp came, discoursed with them about the battle and the army. Come, come, gentlemen, it is a plain proof.

FOREMAN—My lord, we do not remember it was proved that she did ask any such question when they were there.

Lord Chief-Justice—Sure you do not remember anything that has passed! Did not Dunne tell you there was such discourse, and she was by, and Nelthorp's name was named. But if there were no such proof the circumstances and management of the thing is as full of proof as can be; I wonder what it is you doubt of.

Mrs. Lisle—My lord, I hope ——

Lord Chief-Justice—You must not speak now.

Then the jury laid their heads together for near a quarter of an hour, and at length agreed, and being called over, delivered in this verdict by the foreman.

Clerk of Arraigns—Alice Lisle, hold up thy hand. Gentlemen of the jury, look upon the prisoner, how say ye? Is she guilty of the treason whereof she stands indicted, or not guilty.

Foreman—Guilty.

Clerk of Arraigns—What goods or chattels, lands or tenements had she?

Foreman—None that we know of.

Clerk of Arraigns—Look to her, jailor, she is found guilty of high treason; and prepare yourself to die.

Then the verdict was recorded.

Lord Chief-Justice—Gentlemen, I did not think I should have any occasion to speak after your verdict, but finding some hesitancy and doubt among you, I cannot but say I wonder it should come about; for I think in my conscience the evidence was as full, and plain as could be, and if I had been among you, and she had been my own mother, I should have found her guilty.

Then the Court adjourned till the next morning.

The next day Lady Lisle and other prisoners were brought up to receive sentence.

Jeffreys, after lamenting the condition of 'you Mrs. Lisle, a gentlewoman of quality and of fortune, so far stricken in years, one who all your life-time have been a great pretender to, and professor of, religion, and of that religion which bears a very good name, the Protestant religion,' goes on to point out that 'there is no religion whatsoever (except that hypocritical profession of theirs which deserves not the name of religion, I mean the canting, whining Presbyterian, phanatical profession) that gives the least countenance to rebellion or faction.' He cannot but deplore 'that in this little case so many perjuries should be added to the crime of treason, such as for my part I cannot but tremble to remember.' She should repent of her own false asseverations and protestations

that you upon your salvation should pretend ignorance in the business, when since that time, ever since last night, there has been but too much discovered how far you were concerned: no it is not unknown who were sent for upon the Monday night, in order to have that rebellious seditious fellow to preach to them, what directions were given to come through the orchard the back and private way, what orders were given for provision and how the horses were appointed to be disposed of.

After exhortations to all the prisoners to repent, the Court awards

that you Mrs. Lisle be conveyed from hence to the place from whence you came, and from thence you are to be drawn on a hurdle to the place of execution, where your body is to be burnt alive till you be dead. And may the Lord have mercy on your soul.

The rest of the prisoners then had the usual judgment as in cases of felony.

Lord Chief-Justice—Look you, Mrs. Lisle, when I left his majesty he was pleased to remit the time of all executions to me; that whenever I found any obstinacy or impenitence I might order the executions with what speed I should think best; therefore Mr. Sheriff, take notice you are to prepare for this execution of this gentlewoman this afternoon. But on that, I give you, the prisoner, this intimation; we that are the judges shall stay in town an hour or two; you shall have pen, ink and paper, brought you, and if in the mean time you employ that pen, ink and paper, and this hour or two well (you understand what I mean) it may be you may hear further from us, in a deferring the execution.

On the intercession of 'some divines of the church of Winchester' execution was respited till 2nd of September; and her sentence was afterwards commuted to beheading. She was accordingly beheaded on the afternoon of the 2nd of September 1685 in the market-place of Winchester.

In 1689, on the petition of her daughters Mrs. Lloyd and Mrs. Askew, her attainder was annulled

by Act of Parliament on the ground that the verdict was 'injuriously extorted and procured by the menaces and violences and other illegal practices of George Lord Jeffreys, baron of Wem, then Lord Chief-Justice of the King's Bench.' [1]

[1] Cf. with note, p. 270.

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